

ORDINANCE NO. 2021-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAREMONT, CALIFORNIA, ADOPTING A CODE AMENDMENT TO IMPLEMENT AN UPDATE TO THE CLAREMONT MUNICIPAL CODE. APPLICANT – CITY OF CLAREMONT

WHEREAS, pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the California Government Code, the City has adopted the Claremont Municipal Code; and

WHEREAS, to improve the functionality of the Municipal Code, City staff has prepared a comprehensive technical update (“Code Amendment”); and

WHEREAS, the proposed Code Amendment ensures consistency with newly-adopted State laws and incorporates minor “clean-up” changes such as revising text for improved accuracy and readability; and

WHEREAS, the proposed Code Amendment also improves the functionality of the Municipal Code; and

WHEREAS, the City Council has considered the proposed Code Amendment, the staff report, any written public comments, and all information, evidence, and verbal comments received at its October 12 and 26, 2021 meetings.

THE CITY COUNCIL OF THE CITY OF CLAREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all the facts set forth in the recitals are true and correct and are incorporated as substantive findings of this resolution.

SECTION 2. CEQA. This Code Amendment is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and section 15060(c)(3) (the activity is not a “project” as defined in Section 15378). CEQA Guidelines section 15378(b)(2) and (5) exclude “[c]ontinuing administrative ... activities” and “administrative activities of governments that will not result in direct or indirect physical changes to the environment” from its definition of “project.” Even if this Code Amendment were a “project,” it would be exempt from environmental review under CEQA Guidelines Section 15061(b)(3)’s “general rule” that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Here, it can be seen with certainty that there is no possibility that this item, in and of itself, will have a significant effect on the environment. On its own, this action will not result in any physical changes to the environment.

SECTION 3. Adoption of Code Amendment. The Claremont Municipal Code is hereby amended as set forth in the Exhibit attached hereto and incorporated herein as set forth in full. For ease of reference, the various amendments to the Claremont

Municipal Code are also summarized in the table below. To the extent the substance of the table below conflicts with the Exhibit, the Exhibit shall prevail.

	Code Section	Topic	Summary of Change
1.	1.12.020	Fines for Municipal Code Violations	<p>(B) Makes formatting changes and clarifies that the one year period for higher-level fines for repeat offenses starts on date of first violation</p> <p>(D) As authorized by AB 2598, this change allows fines for violations of Building and Safety Codes in the amount of: \$130 for the first violation; \$700 for the second violation within one year; and \$1,300 for additional violation within one year. For commercial properties, the fine could be as high as \$2,500 for more than two violations within two years if the violations involve failure to remove visible refuse or failure to prohibit unauthorized use of the property. (See Gov. Code § 53069.4(a)(1), referencing Gov. Code §§ 25132 & 36900)</p> <p>(E) Adds a subheading and a definition of "violation"</p> <p>(F) Creates a hardship waiver process for higher-level fines resulting from multiple violations. This process is required by State law. (See Gov. Code § 53069.4(a)(1), referencing Gov. Code §§ 25132 & 36900)</p>
2.	1.14.030(C)	Service of Administrative Citations and Notices of Violation	Authorizes service by first class mail (instead of certified mail, return receipt requested).
3.	1.14.035(C)(1)(b)	Service of Recorded Notice of Violation	Authorizes service by first class mail (instead of registered or certified mail).
4.	1.14.037(B)(5)	Service of Hearing Officer Decision on Police Administrative Citation	Authorizes service by first class mail (instead of certified mail, return receipt requested).

	Code Section	Topic	Summary of Change
5.	1.14.070(C)	Service of Hardship Waiver Determination	Authorizes service by first class mail (instead of certified mail, return receipt requested).
6.	1.14.090(C) and (I)	Service of Enforcement Officer Report and Hearing Officer Decision	Authorizes service by first class mail (instead of certified mail, return receipt requested).
7.	1.14.120	Service of Notices for Administrative Fines and Penalties	Authorizes service by first class mail (instead of certified mail, return receipt requested).
8.	1.15.050(C)	Service of Notice of Proposed Lien on Real Property to Collect Administrative Costs Related to Housing, Building, and Zoning Violations	Requires notices to be served in the manner required by State law (which varies depending on which State law the City is relying on to impose a lien). If State law has no service requirement, then notice may be served by personal service, first class mail (instead of certified mail), or newspaper publication and posting on site.
9.	1.15.100.C	Service of Notice of Hearing Officer Recommendation	Requires notices to be served in the manner required by State law (which varies depending on which State law the City is relying on to impose a lien). If State law has no service requirement, then notice may be served by first class mail (instead of certified mail).
10.	1.15.110(B)	Service of City Council Decision to Set Matter for New Hearing	Requires notices to be served in the manner required by State law (which varies depending on which State law the City is relying on to impose a lien). If State law has no service requirement, then notice may be served by first class mail (instead of certified mail).
11.	5.36.020	Massage Ordinance Definitions	Refines definition of "California Massage Therapy Council" ("CAMTC") Revises definition of "massage" to include "massage services" and

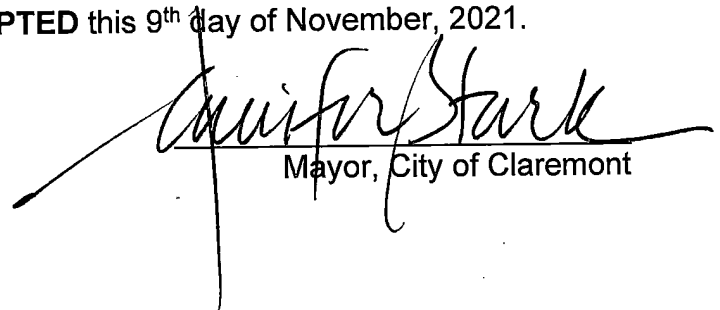
	Code Section	Topic	Summary of Change
			<p>"massage therapy" and cross reference Division 2 of Chapter 10.5 of the Bus. & Prof. Code</p> <p>Separates definitions of "Massage Practitioner" and "Massage Therapist" from "Massage Technician"</p> <p>Refines definition of "Massage Technician"</p> <p>Deletes definition of "Massage technician permit"</p> <p>Refines definition of "Sole proprietorship"</p>
12.	5.36.040	Off-Premises Massage	Changes references to "massage technician" to "massage therapist"
13.	5.36.050	Massage technician permit or certification requirement	Requires all massage technicians to obtain certificate pursuant to Bus. and Prof. Code § 4604 (instead of allowing massage technicians with City permits issued before January 1, 2015 to continue renewing City permits).
14.	5.36.060	Massage Establishment – Business License Required	Removes exception to Massage Establishment business license requirement for businesses operating before January 1, 2015 and clarifies that sole proprietors must obtain both a Massage Establishment business license and a "Massage Technician" license
15.	5.36.070(B)	Massage Establishment – Operating Requirements	<p>(B) Removes reference to obsolete City massage technician permit</p> <p>Adds new subsection (Z) requiring compliance with Code Civ. Proc. § 52.6 (requiring posted notices concerning human trafficking and slavery)</p>
16.	5.36.120(B)	Service of Notice of Revocation or Non-Renewal of Business License for Massage Establishment	Allows for service by first class mail (instead of certified mail, return receipt requested)

	Code Section	Topic	Summary of Change
17.	5.40.020(A)(2)	Solicitation Permits	Requires solicitors to display their solicitation permits while soliciting (instead of merely carrying a copy of the permit).
18.	6.12.220(A)	Service of Notice of Administrative Hearing on Barking Dog Nuisance	Allows for service by first class mail (instead of certified mail) and sets hearing dated based on when notice is sent (instead of received).
19.	6.12.230(F)	Service of Notice of Appeal Hearing on Barking Dog Nuisance	Allows for service by first class mail (instead of certified mail) and sets hearing dated based on when notice is sent (instead of received).
20.	6.12.240	Service of Decision of Humane Society of Barking Dog Nuisance	Allows for service by first class mail (instead of certified mail)
21.	8.16.080(B)	Service of Notices and Orders of Public Nuisances	Allows for service by first class mail (instead of registered or certified mail)
22.	8.28.060(I)	Violations of Stormwater Ordinance	Specifies that, in addition to a \$1,000 fine and/or imprisonment, violators are also liable for the City's enforcement and mitigation costs.
23.	11.01.020	Definition of "Public Park"	Clarifies that Oak Park Cemetery is a public park. This change will make it more clear that regulations for parks, such as hours of operation, apply to the Cemetery.
24.	12.26.020 – 030	Duties of the Community and Human Services Commission and the Director of Community Services	Authorizes the Director of Community Services to approve "minor" changes to the designated street tree list.
25.	Removed		
26.	17.212.060	Forfeiture of Security Subdivision Improvements	In addition to certified mail, allows for notices to be served in any manner authorized by the Subdivision Map Act and/or the applicable subdivision improvement agreement.

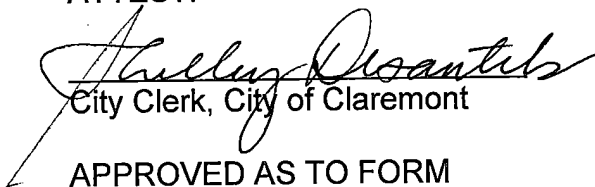
SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 5. Publication. The mayor shall sign this ordinance and the city clerk shall attest and certify to the passage and adoption of it, and within fifteen (15) days, publish a summary in the Claremont Courier, a weekly newspaper of general circulation, printed, published, and circulated in the City of Claremont and thirty (30) days thereafter it shall take effect and be in force.

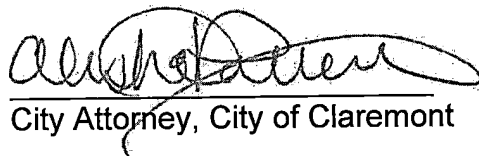
PASSED, APPROVED, AND ADOPTED this 9th day of November, 2021.


Mayor, City of Claremont

ATTEST:


City Clerk, City of Claremont

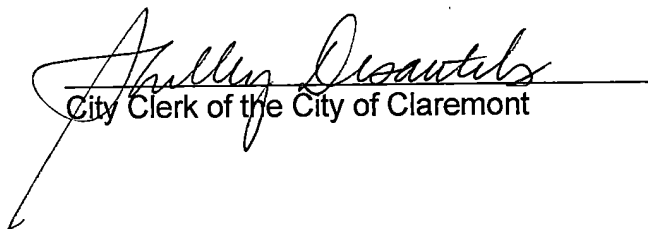
APPROVED AS TO FORM


City Attorney, City of Claremont

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss.
CITY OF CLAREMONT)

I, Shelley Desautels, City Clerk of the City of Claremont, County of Los Angeles, State of California, hereby certify that the foregoing Ordinance No. 2021-06 was introduced at a regular meeting of said council held on the 26th day of October, 2021, that it was regularly passed and adopted by said City Council, signed by the Mayor and attested by the City Clerk of said City, all at a regular meeting of said council held on the 9th day of November, 2021, and that the same was passed and adopted by the following vote:

AYES: COUNCILMEMBERS: CALAYCAY, LEANO, MEDINA, REECE, STARK
NOES: COUNCILMEMBERS: NONE
ABSTENSIONS: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE


City Clerk of the City of Claremont

[Code Amendments]

***** AMENDMENT 1 *****

1.12.020 Penalties for violations of the Municipal Code.

A. Misdemeanor—Penalty. Every violation of this Code which is prosecuted as a misdemeanor shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

B. Infraction—Penalty. Every violation of this Code which is prosecuted as an infraction shall be punishable by the following:

1. A fine not exceeding one hundred dollars (\$100) for the first offense;
2. A fine not exceeding two hundred dollars (\$200) for the second violation of the same provision within one year of the first offense; and
3. A fine not exceeding five hundred dollars (\$500) for each additional violation of the same provision within one year of the first offense.

C. Parking—Penalty. Every violation of this Code which involves the parking, standing or stopping of a vehicle shall be punishable by a civil penalty as established by the City through resolution. All penalties, with the exception of the overnight parking penalty in Section 10.32.210, shall increase at a progressive rate. The second offense, within one year, shall equal two times the amount of the penalty, as set by resolution, and all subsequent offenses, within one year, shall equal three times the amount of the penalty, as set by resolution.

D. Violation of Building and Safety Codes—Notwithstanding the above, a violation of local building and safety codes that is an infraction is punishable by the following:

1. A fine not exceeding one hundred thirty dollars (\$130) for the first offense;
2. A fine not exceeding seven hundred dollars (\$700) for the second violation of the same provision within one year of the first offense; and
3. A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same provision within one year of the first offense; or a fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same provision within two years of the first offense if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

E. Definitions—As used in this section, the term “year” means any consecutive twelve-month period. As used in this section, the terms “offense” and “violation” include any violation of the code which is cited or charged and which does not result in:

1. An acquittal;
2. A finding of “not guilty”;
3. A dismissal of charges by the City or the court.

F. Hardship Waiver—For fines imposed pursuant to paragraphs (2) and (3) of subdivisions (B) and (D), above, the recipient of a fine may request a hardship waiver by completing a

hardship waiver form and returning the form to the City Clerk. The waiver request shall include a sworn affidavit and any supporting documents or materials demonstrating to the satisfaction of the City Manager that: (1) the recipient of the fine has made a bona fide effort to comply after the first violation, and (2) payment of the full amount of the fine would impose an undue financial burden on the recipient. The City Clerk shall serve written notice of the City Manager's determination on the recipient of the fine by certified mail, return receipt requested. Service shall be deemed complete at the time the notice is deposited into the mail and addressed to the person at the address indicated on the hardship waiver form. The notice shall include a brief description of the reasons for the City Manager's determination to approve or not approve the hardship waiver. The written determination of the City Manager shall be final. If the City Manager determines not to approve a hardship waiver, the recipient of the fine shall remit the deposit amount to the City Clerk within ten (10) days of service of that decision, or thirty (30) calendar days from the date of the citation or administrative citation, whichever is sooner.

***** AMENDMENT 2 *****

1.14.030 Administrative citations and notices of violations.

[No change to A or B]

C. Service of the administrative citation shall be made by: (1) personal service on the person in any of the various ways that a person may be served with a summons in a civil action pursuant to California Code of Civil Procedure Section 415.10, as such may be amended from time to time; or (2) first class mail. When mail is used, service shall be complete at the time the citation is deposited into the United States mail; or (3) in instances when personal service or first class mail is not possible, then service shall be provided by publishing a notice in a newspaper of general circulation and posting an 8-1/2" x 11" enlargement of the administrative citation in a conspicuous location on or in front of the property.

[No change to D]

***** AMENDMENT 3 *****

1.14.035 Recording notices of violation.

[No change to A or B]

C. A copy of the recorded notice of violation shall be served on the responsible person and property owner pursuant to any of the methods of service set forth as follows:

1. Posting a notice in a conspicuous place on or in front of the property in question and by either one of the following methods:
 - a. By personal service on the owner(s); or
 - b. By first class mail addressed to the owner(s) of the property at their last-known address. If there is no known address for the owner, lessee, occupant and other person having charge or control of the property, the notice shall be sent to the property address. Service shall be completed at the time of deposit into the United States mail.

[No change to D through I]

***** AMENDMENT 4 *****

1.14.037 Police administrative citations—Requests for hearing and hearing on police administrative citations.

[No change to A through B.4]

5. After considering all of the testimony and evidence submitted at the administrative hearing, the hearing officer shall issue a written decision to affirm or cancel the police administrative citation. The written decision shall include the hearing officer's findings for that decision, as well as information regarding the recipient's appeal rights to the courts. The recipient of the police administrative citation shall be served with a copy of the hearing officer's written decision either in-person or by first class mail to the address provided by such recipient at the time of the request for the administrative hearing. The decision of the hearing officer shall be the City's final administrative decision.

[No change to B.6 through B.10]

***** AMENDMENT 5 *****

1.14.070 Deposit hardship waivers for administrative citations.

[No change to A or B]

C. The City Manager may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the applicant submits the required advance deposit hardship waiver form and includes a sworn affidavit and any supporting documents or materials demonstrating to the satisfaction of the City Manager that it would be a significant financial detriment on the recipient of the administrative citation to deposit the full amount of the fine or penalty in advance of the hearing. The requirement for depositing the full amount of the fine or penalty shall be sustained unless or until the City Manager makes this determination. In making this determination, the City Manager shall use the same criteria used by the courts to determine whether to waive filing fees. The City Clerk shall serve written notice of the City Manager's determination on the recipient of the administrative citation by first class mail. Service shall be deemed complete at the time the notice is deposited into the mail and addressed to the person at the address indicated on the administrative hearing request form. The notice shall include a brief description of the reasons for the City Manager's determination to issue or not issue the advance deposit hardship waiver. The written determination of the City Manager shall be final.

[No change to D]

***** AMENDMENT 6 *****

1.14.090 Hearing procedure for administrative citations.

[No change to A or B]

C. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer, then a copy of this report shall be served on the person requesting the hearing by first class mail at least five calendar days prior to the date of the hearing. Service shall be deemed complete at the time the report is deposited into the mail and addressed to the person at the address indicated on the administrative hearing request form.

[No change to D through H]

I. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to affirm or cancel the administrative citation. The written decision shall include the hearing officer's findings for that decision, as well as information regarding the recipient's appeal rights to the courts. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision by first class mail. The decision of the hearing officer shall be the City's final administrative decision.

[No change to J through L]

***** **AMENDMENT 7** *****

1.14.120 Notices for administrative citations.

Any and all notices or decisions required to be given by the administrative provisions of this chapter for administrative citations, as the term is defined in this chapter, shall be served on the person cited by first class mail. The notices or decisions shall be addressed to the recipient at the last known address for that person, including the address provided on forms or writings required by the administrative provisions of this chapter. Personal service may be substituted for mailed notice any time. Actual notice shall be deemed adequate notice regardless of the method of service. Failure to receive any notice shall not affect the validity of any proceedings conducted hereunder.

***** **AMENDMENT 8** *****

1.15.050 Notice of proposed lien.

[No change to A or B]

C. Service of the notice of proposed lien shall be made in the manner required by law. If there is no manner required by law, then service of the notice of the proposed lien shall be made by:

1. Personal service on the responsible person in any of the various ways that a person may be served with a summons in a civil action pursuant to Section 415.10 of the Civil Code;
2. First class mail; or
3. In instances when personal service or certified mail is not possible, then service shall be provided by publishing a notice in a newspaper of general circulation and posting an 8-1/2" x 11" enlargement of the notice of costs in a conspicuous location on or in front of the subject property.

Unless a different date of effectiveness is provided in the notice of proposed lien, the effective date shall be as follows: (a) if personal service is made, notice shall be effective upon actual service, (b) if mail is used, notice shall be effective at the time of deposit in the United States mail, or (c) if publishing and posting is used, notice shall be effective at the time both the publication and posting are complete.

***** **AMENDMENT 9** *****

1.15.100 Hearing procedure.

[No change to A or B]

C. The recommendation of the hearing officer shall be delivered to the responsible person in the manner required by law. If there is no manner required by law, then the recommendation of the hearing officer shall be served to the responsible person by first class

mail at least ten (10) days before the City Council shall consider such recommendation. Such notice shall also include the date and time at which the City Council shall consider the hearing officer's recommendation.

***** **AMENDMENT 10** *****

1.15.110 Action by City Council.

[No change to A]

B. If the City Council sets the matter for a new hearing, written notice shall be provided to the responsible person in the manner required by law. If there is no manner required by law, then written notice shall be provided to the responsible person by first class mail at least ten (10) calendar days in advance of the hearing. The hearing shall be conducted in accordance with the procedures set forth in Section 1.15.100 of this Code.

[No change to C or D]

***** **AMENDMENT 11** *****

5.36.020 Definitions.

For the purpose of this chapter, unless the context clearly requires otherwise, the words and phrases defined in this section shall have the following meanings:

“Business employee” means a person employed by a massage establishment or business to provide massage services.

“California Massage Therapy Council” or “CAMTC” means the massage therapy organization authorized to issue certifications pursuant to the California Business and Professions Code (commencing with Section 4600, as amended).

“Chief of Police” means the Chief of Police for the City of Claremont.

“Conviction” or “convicted” means a guilty plea or verdict, or a conviction following a plea of nolo contendere, where the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing the applicant to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

“Disqualifying conduct” means the occurrence of any of the following events within ten (10) years immediately preceding the date of filing of the application in question or, in the case of non-renewal, revocation or suspension proceedings, within ten (10) years of the date of notice of hearing pursuant to Section 5.36.120 (Notice of revocation or non-renewal):

1. A conviction in a court of competent jurisdiction of any of the following:
 - a. Any infraction, misdemeanor or felony offense which relates directly to the operation of a massage establishment, or during the performance of a massage, whether as a massage establishment owner or operator, or as a massage technician or massage practitioner;

- b. Any felony, the commission of which occurred on the premises of a massage establishment;
 - c. A violation of any provision of law pursuant to which a person is required to register under the provisions of Penal Code Section 290, or conduct in violation of Penal Code Section 266h, 266i, 311.6, 314, 315, 316, 318, 415, subsections (a), (b) or (d) of Penal Code Section 647, or an attempt to commit or conspiracy to commit any of the above-mentioned offenses, or any other crime involving dishonesty, fraud, deceit, or moral turpitude or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of Penal Code Section 415, 602 or any lesser included or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes, or any crime committed while engaged in the ownership of a massage establishment or the practice of massage;
 - d. A violation of Health and Safety Code Section 11550 or any offense involving the illegal sale, distribution or possession of a controlled substance specified in the California Health and Safety Code Section 11054, 11055, 11056, 11057 or 11058;
 - e. Any lesser-included offense of any of the aforesaid offenses; and
 - f. Any offense in a jurisdiction outside the State of California, which is the equivalent of any of the aforesaid offenses.
2. For purposes of considering whether to renew or revoke a license, the licensee engaging in or committing any of the conduct described in California Penal Code Sections 266h, 266i, 314, 315, 316, 318, subsections (a), (b) or (d) of Penal Code Section 647, or Government Code Section 51032.
 3. The requirement to register under the provisions of California Penal Code Section 290.
 4. Becoming subject to a permanent injunction against the conducting or maintaining of a nuisance pursuant to California Penal Code Sections 11225 through 11235, or any similar provisions of law in a jurisdiction outside the State of California.
 5. Becoming subject to a permanent injunction against the conducting or maintaining of a nuisance pursuant to California Health and Safety Code Sections 11570 through 11587, or any similar provisions in a jurisdiction outside the State of California.
 6. The denial, non-renewal, suspension, or revocation of any license or permit issued by any state, county, city, or other local government within the United States for the operation of a massage establishment or for the performance of massages, except that denial of license or permit for the operation of a massage establishment shall not be considered if the sole basis for the denial was the prohibition of the use within the zoning or planning district in which the use was proposed to be located.
 7. Touching the genitals, pubic regions, anuses, or female breasts below a point immediately above the top of the areolas, whether or not the same are covered, of oneself or of another person while providing massage services or while within view of a customer or patron of the massage establishment.

8. Exposing the genitals, pubic regions, anuses, or female breasts below a point immediately above the top of the areola of oneself or of another person to view while providing massage services or while within view of a customer or patron of the massage establishment.

“Employee” means any owner, partner, manager, supervisor, and worker, whether paid or not, who renders personal services in any nature in the operation of a massage establishment.

“Hearing officer” means a person appointed by the City Manager or his/her designee to determine the validity of an appeal related to a City action on a massage establishment license or massage technician permit.

“Independent contractor” means a person who works freelance at a business or is self-employed.

“Manager” means the person(s) listed on the massage establishment business license or any writing submitted to the City of Claremont pursuant to Section 5.36.070(W) of this chapter to act as the representative and agent of the operator in managing day-to-day operations with the same liabilities and responsibilities. Evidence of management could include, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy, rules or purchase supplies. A manager may also be an owner.

“Massage,” “massage services,” or “massage therapy” means the scientific manipulation of the soft tissues or as otherwise defined in Division 2 Chapter 10.5 of the Business and Professions Code. “Massage certificate” means a certificate issued pursuant to Section 4604 of the Business and Professions Code (Chapter 10.5 commencing with Section 4600, as amended).

“Massage establishment” means any establishment having a fixed place of business where any individual, person, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals that engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on for consideration, massages, baths, or health treatments involving massages or baths as regular functions.

“Massage Practitioner” or “Massage Therapist” means a person who is certified by the CAMTC under Section 4604 of the California Business and Professions Code administering massage for compensation.

“Massage technician” means any of the following:

1. Any person who administers to any person, for any form of consideration or gratuity, a “massage,” “massage services,” or “massage therapy” as defined in Section 5.36.020 of this Chapter. A “Massage Technician” also includes a student at an approved school performing massage, massage services, or massage therapy to any person who pays for or gives a gratuity for such, whether the payment or gratuity is to such school or to the school. As used in this Chapter, approved school means any school or institution of learning approved pursuant to Division 2, Chapter 10.5 of the Business and Professions Code; or
2. A Massage Therapist or Massage Practitioner who is certified by the CAMTC pursuant to section 4604 of the Business and Professions Code, and who administers massage for compensation.

“Off premises” means any business where the services are provided at a location other than the premises listed on the application.

“Open and conspicuous place” means a place which provides an unobstructed view of the requisite information upon first entering the massage establishment or room.

“Operator/owner” means all persons who have an ownership interest in the massage establishment and/or a person who is responsible for its day-to-day operations.

“Person” means any individual, firm, corporation, partnership, association, or other group or combination of individuals acting as an entity.

“Police Department” means the City of Claremont Police Department.

“Sole proprietorship,” as used in this Chapter, means a Massage Establishment where the owner owns 100 percent (100%) of the business and is the only person who provides massage services for compensation pursuant to a valid and active CAMTC certificate. A Sole Proprietor has no employees or independent contractors providing massage services.

***** **AMENDMENT 12** *****

5.36.040 Off-premises massage.

No massage regulated by this chapter shall be performed at a place or location other than at premises for which a valid massage establishment license has been obtained pursuant to this chapter, except in the following circumstances:

- A. A CAMTC certified massage therapist may perform massage in conjunction with a valid home occupation permit pursuant to Chapter 16.327; or
- B. Massage may be performed at premises expressly exempted or excepted by Section 5.36.030 (Exemptions and exceptions), provided the massage is performed by a person exempt under Section 5.36.030(A) or a massage technician having a valid license pursuant to this chapter; and
- C. A massage technician may perform massages at a place or location other than at premises for which a valid business license has been obtained under this chapter, and other than as provided in subsection (A)(1) hereof, only when:
 - 1. Such massage is specifically prescribed in writing by a physician, surgeon, chiropractor, or osteopath duly licensed to practice in the State of California. No additional massage services shall be performed for any patron beyond that service which is specifically described in the writing whether or not such patron desires any additional service to be performed, and
 - 2. Only if the massage technician has the required education for a therapist license or holds a massage certificate, and only if that person also has certified proof of three (3) or more years of massage therapy experience.

***** **AMENDMENT 13** *****

5.36.050 Massage technician.

Permit Required. It is unlawful, and a misdemeanor, for any person to perform or administer a massage without a certificate issued pursuant to Section 4604 of the Business and Professions Code (Chapter 10.5 commencing with Section 4600, as amended).

***** AMENDMENT 14 *****

5.36.060 Massage establishment—Business license required.

Business License Required. It is unlawful and a misdemeanor subject to punishment in accordance with Section 1.12.010 et seq. of this code (Violations of the Municipal Code), for any person to own, operate, manage, engage in, or permit to be conducted or carried on, in or upon any premises within the City, a massage establishment or business without a valid City of Claremont business license pursuant to Chapter 5.20 and Section 4.06.020 of this Code. Sole Proprietors must possess both a Massage Establishment business license and a “Massage Technician” license.

***** AMENDMENT 15 *****

5.36.070 Massage establishment—Operating requirements.

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, any massage establishment or business, unless each of the following requirements are met:

[No change to A]

B. No operator/owner or manager shall employ any person as a massage technician who does not have a valid massage certificate required pursuant to this chapter. The operator/owner and/or the manager shall file copies or other evidence of the certificates or permits held by the persons who are providing massage services at the business with the City of Claremont Finance Department, to be maintained with the business license records, within ten (10) calendar days of the start of employment or services.

[No change to C through Y]

***** AMENDMENT 16 *****

5.36.120 Notice of revocation or non-renewal.

[No change to A]

B. Notice shall be delivered to the licensee or permittee, and other person(s) designated on the license, at the address(es) designated in the license, via first class mail.

[No change to C]

***** AMENDMENT 17 *****

5.40.020 Permit—Required.

A. The following provisions shall apply to permits for commercial solicitation:

[No change to A.1]

2. All persons who engage in solicitation shall comply with the following:

a. Carry a photo identification and display visible to persons contacted a valid permit issued pursuant to this section, and if acting on behalf of another, including acting on behalf of another person (as defined in Section 5.40.010), such person shall carry written authorization to act on behalf of such third party and display visible to persons contacted the permit issued to such third party; and

b. Immediately present a solicitation permit, identification and authorization to act on behalf of a third party, if applicable, to any person approached for said

solicitation and to any law enforcement official, upon their request.

3. The permit shall contain the name, permanent residence address of the solicitor, a brief description of the solicitor and the photograph of such solicitor.
4. Permits are not assignable.
5. Permits and authorizations to act on behalf of third parties are not transferable.

[No change to B. or C.]

D. All Massage Establishments must comply with the requirements of California Civil Code Section 52.6 which requires the posting of notices concerning human trafficking and slavery in a public and conspicuous place.

***** **AMENDMENT 18** *****

6.12.220 Barking dogs—Hearing—Notice.

A. If any further complaint in the form of a declaration satisfying the requirements of Section 6.12.200 is received by the sheltermaster concerning the same dog, within a six (6) month period from the date of the last initial declaration, the sheltermaster may take action by notifying the dog owner or the person having custody of the dog by first class mail that an administrative hearing is to be held at least ten days from the date the notice is sent, concerning the nuisance created by the dog.

[No change to B through E]

***** **AMENDMENT 19** *****

6.12.230 Appeal to the appellate hearing officer.

[No change to A through E]

F. Within forty-five (45) days from the date of the City Clerk's receipt of the written appeal, the appellate hearing officer shall notify the dog owner or the person having custody of the dog by first class mail that an administrative appeal hearing is to be held at least ten (10) days from the date the notice is sent, concerning the nuisance created by the dog.

[No change to G through J]

***** **AMENDMENT 20** *****

6.12.240 Barking dogs—Disposition.

The dog shall be kept by the humane society for at least ten days after notice of the decision is given by first class mail to the owner that the dog has been declared a nuisance. The owner shall be notified of such time period the dog will be held to allow the owner the opportunity to obtain judicial remedy if desired. If no court order is issued after such period preventing it, the humane society shall make every effort to place such dog for adoption in a rural area where it will not be a disturbance to any surrounding neighborhood.

***** AMENDMENT 21 *****

8.16.080 Service of notices and orders.

Service of notices and orders required under this chapter shall be made by posting a notice in a conspicuous place on or in front of the property in question and by either one of the following methods:

- A. By personal service on the owner(s); or,
- B. By first class mail addressed to the owner(s) of the property at their last-known address. If there is no known address for the owner, lessee, occupant and other person having charge or control of the property, the notice shall be sent to the property address. Service shall be completed at the time of deposit into the United States mail.

***** AMENDMENT 22 *****

8.28.060 Violations and enforcement.

[No change to A. through H.]

I. Violation—Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor. Such violation shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for a period not to exceed six months. Each day during any portion of which such violation is committed, continued or permitted shall constitute a separate offense and shall be punishable as such. Any person(s) responsible for any violation of this chapter shall also be liable to the City for: (i) all costs relating to investigation, sampling, inspection, monitoring, administrative expenses, legal expenses, including costs and attorney fees, and consultant and expert fees and costs, and consequential damages; (ii) all costs incurred in mitigating harm to the environment or reducing the threat to human health; and (iii) any damages for irreparable harm to the environment. The Director or authorized enforcement staff may cause the enforcing attorney to file an action for civil damages in a court of competent jurisdiction seeking recovery of such costs.

[No change to J. through L.]

***** AMENDMENT 23 *****

11.01.020 Definitions.

For the purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Human Services Director” means the Director of Human Services or any person designated by the City Manager or the Director of Human Services to perform the director’s duties under this title.

“Permit” means a certificate or written approval to engage in activities in public parks in the City as specified in this title. Unless otherwise expressly provided in this title, all permits required under this title shall be obtained from the Human Services Director.

“Public park” means a specific piece of ground, owned, operated, maintained or under the control of the City and set apart for the recreational use of the general public, whether developed or undeveloped, including natural parks, and that is usually, or may be, planted with trees, lawns and other shrubbery. A park may include within its boundary facilities for sports, entertainment, dancing, recreation, swimming, or a park may be planned for any beneficial use by the public. A park may have numerous facilities or consist of only a single

facility. Facilities means any building, playground equipment, basketball court, tennis court, skate court, croquette court, volleyball court, baseball field, softball field, soccer field, wading pool, and/or recreation area which are owned or operated by the City, or for which the City has enforcement and/or maintenance responsibilities. For the purposes of this Title, Oak Park Cemetery is a public park.

***** **AMENDMENT 24** *****

12.26.020 Duties of Community and Human Services Commission.

The Community and Human Services Commission serves as the City's tree advisory board. The commission shall:

- A. Study the problems and determine the needs of the City in connection with its tree planting and maintenance programs; establish the designated street tree list; approve major changes to the designated street tree list; and hold discussions of tree-related issues at public meetings.
- B. Hear and determine appeals from staff decisions regarding street tree removal. The Commission may grant an appeal if it finds that the staff decision would result in a burden on the property owner that substantially outweighs the benefit to the public. The Commission's decision may be appealed to the City Council if a written appeal, setting forth the grounds, is filed with the City Clerk within ten days of the Commission decision. If no timely appeal is filed, the decision shall be final.

12.26.030 Duties of Director of Community Services.

The powers and duties of the Director of Community Services, or designee, under this chapter are as follows:

- A. To designate a particular place within the City easement or on any City-owned property where a City tree will be planted.
- B. To approve minor changes to the designated street tree list; to recommend to the Community and Human Services Commission any major changes to the designated street tree list; and to determine if any change to the designated street tree list qualifies as "major" or "minor."
- C. To draft a tree policy manual that states policies and procedures concerning the selection, planting, maintenance and removal of trees in public places to promote a viable urban forest.
- D. To grant or deny the issuance of permits in accordance with the terms of this chapter.

***** **AMENDMENT 25** *****

Removed

***** **AMENDMENT 26** *****

17.212.060 FORFEITURE OF SECURITY

Upon the failure of a subdivider to complete all improvements within the time specified in an improvement agreement or extension thereof, the City Council may, upon notice in writing of not less than 20 days served by certified mail or by any other manner of notice authorized by the Subdivision Map Act or the improvement agreement, determine that the subdivider is in default.

The Council may then determine that the improvement security or such portion thereof necessary to complete the work or any other obligation of the subdivider shall be forfeited to the City.