

ORDINANCE NO. 2913-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTER 9.41 (MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS) OF TITLE 9 (PUBLIC PEACE, SAFETY OR WELFARE) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.41 AMENDED. Chapter 9.41 (Message Establishments and Massage Therapists) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 9.41.

MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS

- 9.41.010. Findings.
- 9.41.020. Purpose and intent.
- 9.41.030. Definitions.
- 9.41.040. Massage establishment license required.
- 9.41.050. Massage establishment license application fee.
- 9.41.060. Application for a non-CAMTC certified massage establishment license.
- 9.41.065. Application for a CAMTC massage establishment license.
- 9.41.070. Granting or denial of massage establishment license.
- 9.41.075. Maintenance of CAMTC Certificates.
- 9.41.080. Massage therapist license required.
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- 9.41.100. Massage therapist trainee license required.
- 9.41.110. Appeal of denial of license.
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- 9.41.130. Facility requirements.
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- 9.41.150. Location.
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- 9.41.250. Massage establishment license—Suspension or revocation.
- 9.41.260. Massage therapist or trainee license—Suspension or revocation.

- 9.41.270. Procedure for revocation or suspension of licenses.**
- 9.41.280. Hearing rules.**
- 9.41.290. Reapplication after denial—No refund of fee—Return of license.**
- 9.41.300. Violation—Penalty—Time limit on license reissuance.**

9.41.010. Findings.

The city council finds and declares as follows:

(a) The license requirements and restrictions imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the city.

(b) – (i) [Text unchanged.]

9.41.020. Purpose and intent.

(a) – (b) [Text unchanged.]

(c) It is the intent of this chapter to comply with California Business and Professions Code Section 4600 et seq. (SB 731) effective September 1, 2009, which created a voluntary statewide massage certification program administered by the California Massage Therapy Council. Consistent with state law, the City retains the ability to regulate local massage therapist licensing, massage establishment licenses, health and safety issues and land use and zoning.

9.41.030. Definitions.

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this section shall have the meanings given them in this section.

(a) “Conviction” or “convicted” means a plea or verdict of guilty or a conviction following a plea of nolo contendere or no contest.

(b) “CAMTC certificate” means a valid certificate issued by the California Massage Therapy Council to a massage therapist or practitioner.

(c) “CAMTC certificate holder” or “CAMTC certified” means a massage therapist or practitioner who has obtained a CAMTC certificate.

(d) “CAMTC massage establishment” means, as defined in Business and Professions Code Section 4612(b)(1), either a sole proprietorship, where the sole proprietor is CAMTC certified, or an establishment that employs only CAMTC certified persons to provide massage services.

(e) “Customer area” means areas open to customers of the establishment.

(f) “Director of public safety” means the director of the Sunnyvale department of public safety or his or her designee.

(g) “Direct supervision” means supervision by a person such as a licensed medical professional who is present on the premises at all times the person being supervised is working. “Direct supervision” does not necessarily mean that the supervisor must be present in the same room as the employee being supervised, but must be on the premises and able to make a determination whether or not the employee being supervised is complying with the supervisor’s instructions, required procedures and applicable standards.

(h) “Disqualifying conduct” means conduct by any person who:

(1) [Text unchanged.]

(2) Within five years immediately preceding the date of the filing of the application in question or, in the case of revocation or suspension proceedings, within five years of the date of notice of revocation or suspension hearing, whichever is applicable, has had any massage establishment, operator, therapist or trainee license, which was issued by the state of California, or by any county or municipality, revoked; or

(3) - (5) [Text unchanged.]

(f) – (g) [Renumbered (i) through (j), consecutively; text unchanged.] (k) “Massage therapist” or “massage therapist trainee” means any person who administers massages, baths or health treatments involving massages or baths as the principal functions to another person for any direct or indirect consideration whatsoever. The terms “massage technician” and “massage practitioner” are included within the definition of “massage therapist” or “massage therapist trainee,” as appropriate, for purposes of this chapter. A CAMTC certificate holder is also included within the definition of “massage therapist”.

(l) “Massage therapist license” or “massage therapist trainee license” means a written document issued by the department of public safety authorizing the holder to engage in the activities of a massage therapist or massage therapist trainee, as appropriate, as defined by this chapter and pursuant to the regulations, requirements and standards set forth in this chapter.

(m) “Off-premises massage” means the engaging in or carrying on of massage for consideration at a location other than a duly licensed massage establishment.

(k) – (o) [Renumbered (n) through (r), consecutively; text unchanged.]

9.41.040. Massage establishment license required.

It shall be unlawful for any person to establish, operate, conduct or maintain, in or upon any premises within the city, a massage establishment without the license obtained from the director of public safety as required by this chapter. This provision applies to all massage establishments, including CAMTC 4612(b)(1) establishments. A separate license shall be obtained for each separate massage establishment operated by such person. Upon payment of the appropriate license application fee, a massage establishment license shall be issued to any person who has complied with the requirements of this chapter and all other applicable provisions of this code, unless grounds for denial of such license are found to exist. Only one license (including a license which has been suspended, revoked, or is in the appeals process) shall be issued to a business location. No additional applications for licenses will be accepted for locations which are in the appeals process, until the existing license has expired, been revoked, or been surrendered by the applicant.

9.41.050. Massage establishment license application fee.

Any application for a massage establishment license, or for renewal thereof, shall be accompanied by a nonrefundable fee, in an amount established by resolution of the city council. The application fee shall be used to defray, in part, the costs of investigation and report, and is not made in lieu of any other fees or taxes required under this code, including a business license required pursuant to Chapter 5.04. A license to operate a massage establishment shall be renewed annually. The licensee shall pay a renewal fee for such renewal, in an amount established by resolution of the city council. A separate application fee and renewal fee shall be established for CAMTC 4612(b)(1) establishments. The

establishment license application fee does not eliminate the payment of the City's business license tax pursuant to Chapter 5.04.

9.41.060. Application for a non-CAMTC certified massage establishment license .

(a) If a massage establishment will employ any non-CAMTC certified therapist or practitioner, any application for a massage establishment license shall be made with the department of public safety.

(b) The application shall set forth the exact nature of the massage, bath or health treatments to be administered, the proposed place of business and facilities therefor, and the name and address of the applicant. The applicant may be required to furnish fingerprints for purposes of establishing identification. The applicant shall also furnish the following information:

(1) - (8) [Text unchanged.]

(9) The names and residence addresses of all persons currently employed or intended to be employed in the massage establishment, regardless of the nature of the employment, including the names and addresses of any person licensed pursuant to Sections 9.41.080 through 9.41.100 or any person who possesses a valid CAMTC certificate, along with the proposed or actual nature of the work performed or to be performed, and recent passport-size photographs, suitable to the public safety officer processing the application, of each such employee. Unless CAMTC certified, the director of public safety may require such employee to allow fingerprints to be taken for the purpose of identification. Any applicant or licensee shall notify the city in writing of the names, addresses and nature of the work, of any new employees, within five days of such employment, and supply the photographs described in this subsection. Unless CAMTC certified, such new employees shall allow fingerprints to be taken for the purpose of identification upon request. "Employee" includes every owner, partner, manager, supervisor and worker, whether paid or not, who renders personal services of any nature in the operation of a massage establishment;

(10) – (11) [Text unchanged.]

(12) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

9.41.065. Application for CAMTC massage establishment license.

(a) If a massage establishment employs only CAMTC certified therapists or practitioners, a CAMTC massage establishment license application shall be made with the department of public safety.

(b) The application shall specify the nature of the massage therapy or bodywork service available, the hours of operation, the name and address of the establishment.

(c) The application shall state the name and address of the owner(s) and operator(s) of the establishment and the name and mailing address of the applicant.

(d) The application shall also include a copy of a valid CAMTC certificate held by each person who is employed by the establishment to provide massage therapy services.

(e) The application shall include such other information as may be deemed necessary by the director of public safety.

(f) The application shall allow authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(g) The application shall include a signed and dated statement by the applicant that he or she certifies under penalty of perjury that the foregoing information contained in the application is true and correct.

9.41.070. Granting or denial of massage establishment license.

(a) Upon receipt of a completed, written application for a massage establishment license, the director of public safety shall conduct an investigation to ascertain whether such license should be issued, and within sixty days of receipt, shall approve, conditionally approve, or deny the application in writing. If the application is denied, the director shall provide a written statement of the reasons for denial. The director may extend the sixty day period for up thirty additional days.

(b) The director shall deny a license to the applicant where the director makes any of the following findings:

(1) The applicant has made one or more material misstatements in the application for a license; or

(2) The applicant, if an individual; or the stockholders holding more than five percent of the stock of the corporation, the officers and directors, and each of them, if the applicant be a corporation; or the partners, including limited partners, and each of them, if the applicant be a partnership; and the manager or other person principally in charge of the operation of the business, or any such individuals, is a person who has engaged in disqualifying conduct, in the past five years, as described in Section 9.41.030(e); or

(3) The massage establishment, as proposed by the license applicant, if permitted, would not comply with all the applicable laws, including, but not limited to, all the city's building, fire, zoning, and health regulations; or

(4) – (7) [Text unchanged.]

9.41.075 Maintenance of CAMTC Certificates

Every massage establishment that employs CAMTC certified persons shall provide the Sunnyvale Department of Public Safety with a copy or other evidence of the CAMTC certificate of every person who is employed or retained by the establishment to provide massage therapy within thirty (30) calendar days of the commencement of such person's period of employment.

9.41.080. Massage therapist license required.

(a) It shall be unlawful for any person to act as a massage therapist or a massage therapist trainee unless such person holds a valid license issued by the director of public safety or a valid CAMTC certificate. Any director of public safety-issued license is not transferable.

(b) A massage therapist license shall be issued to any person who has fulfilled the requirements of Section 9.41.090, and all other applicable provisions of this code, unless grounds for denial of such license are found to exist. The director of public safety may deny a license to the license applicant if:

(1) - (4) [Text unchanged.]

9.41.090. Application for massage therapist license—Renewals.

(a) Any application for a massage therapist license shall be made with the director of public safety and shall be accompanied by a nonrefundable fee as established by resolution of the city council.

(b) Any person who is not CAMTC certified, applies for a massage establishment license, and desires to act as a massage therapist within said establishment shall be required to pay the fee required by this section and shall be required to apply for, obtain and maintain in full force and effect a massage therapist license.

[Remainder of Text Unchanged.]

9.41.100. Massage therapist trainee license required.

(a) – (d) [Text unchanged.]

(e) Except as provided in subsection (f) of this section, a massage therapist trainee license shall be issued to any applicant who has fulfilled the requirements of subsection (d) of this section.

(f) [Text unchanged.]

(g) The trainee license shall allow the student to work in a massage establishment under the direct supervision and direction of and in the immediate presence of a massage therapist who has received and holds a current and valid license issued pursuant to the provisions of this chapter; provided, however, that no licensed massage therapist shall be permitted to supervise more than two persons who have been issued a trainee license. The trainee license shall expire ninety days from the date of issuance and shall not be renewed except as follows:

(1) [Text unchanged.]

(2) Where the applicant for such renewal has completed not less than one hundred hours of instruction from a recognized school of massage during the effective period of the original trainee license and desires to complete additional hours of instruction to enable the applicant to obtain a diploma or certificate of graduation from such school. Only one such renewal shall be granted pursuant to this subdivision.

(h) [Text unchanged.]

(i) Any massage therapist trainee who, during the life of the trainee license, completes the instruction required of a massage therapist and satisfies all other applicable requirements shall be issued a massage therapist license upon payment of the massage therapist application fee.

9.41.110. Appeal of denial of license.

(a) The director of public safety shall give written notice to the applicant of a denial of an application for a massage establishment license, or a denial of an application for a massage therapist or massage therapist trainee license. The notice shall set forth the grounds for the denial of the license, and shall be mailed to the applicant at the applicant's last known address.

(b) – (c) [Text Unchanged.]

(d) After the hearing on the appeal, the city manager may refer the matter back to the director of public safety for a new investigation and decision, may affirm the decision of the director of public safety, or may decide to direct the director of public safety to issue the license. The decision of the city manager upon such appeal shall be final.

9.41.120. Provisional massage establishment license.

The director of public safety may, at his or her discretion, issue a provisional license to any massage establishment, for a period not to exceed six months, where the applicant is able to show that substantial compliance with the requirements of this chapter has been met and that remaining compliance can be achieved within the period of the provisional license. Such a provisional license cannot be renewed beyond six months from the date of the initial application.

9.41.130. Facility requirements.

(a) Code Requirements. Each massage establishment shall comply with all applicable provisions of this code and any codes adopted by reference herein, including, but not limited to, the Uniform Building Code, the Fire Code, the Electrical Code, and the Plumbing Code. Each application shall be accompanied by three copies of a scaled, detailed floor plan, and any modification or alteration without appropriate permits shall be deemed grounds for revocation of the license or other enforcement remedy.

(b) Signs. Each massage establishment shall comply with the requirements of the city sign regulations.

(c) Lighting. Each room within a massage establishment where massage will be performed shall be provided with sufficient lighting and ventilation in compliance with the Uniform Building Code.

(e) – (h) [Renumbered (d) – (g), consecutively; text unchanged.]

9.41.140. Operations requirements.

(a) [Text unchanged.]

(b) Inspections. As a condition of the massage establishment license, the owner, operator and/or on-duty manager agrees and consents to inspections by city building and public safety department personnel for the purpose of determining compliance with the provisions of this chapter and other applicable regulations, ordinances and laws. The city's building and public safety departments may, from time to time, inspect each massage establishment during the regular business hours of the massage establishment. Public safety personnel may inspect the occupied massage rooms, and may verify the identity of all on-duty employees.

(c) – (d) [Text unchanged.]

(e) Alcoholic Beverages and Controlled Substances. No person shall enter, be in, or remain in, any part of a massage establishment licensed under this chapter while in possession of, consuming, using or under the influence of any alcoholic beverage or controlled substance. The owner, operator and manager shall be responsible to ensure that no such person shall enter or remain upon the massage establishment. Service of alcoholic beverages shall not be permitted.

(f) – (i) [Text unchanged.]

(j) Hours of Operation. The owner shall advise the city, in writing, at the time of the application for a license of the business hours and any subsequent changes in these hours. No person shall operate a massage establishment or administer a massage in any massage establishment between the hours of ten p.m. and eight a.m. the following morning. A massage begun any time before ten p.m. shall nevertheless terminate at ten p.m. All customers, patrons and visitors shall be advised of these hours and shall be excluded from the massage establishment during these hours. The hours of operation shall be displayed in a conspicuous

public place in the lobby within the massage establishment and in the front window clearly visible from the outside.

(k) Advertising. No massage establishment granted a license under this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers or clients that any service is available other than those services authorized by this chapter, nor shall any massage establishment employ language in the text of such advertising that would reasonably suggest to a prospective patron that any service is available other than those services authorized by this chapter.

(l) Insurance. No person shall engage in, conduct or carry on the business of a massage establishment unless there is on file with the director of public safety, and maintained in full force and effect at all times, documents issued by an insurance company authorized to do business in the state of California evidencing that the licensee is insured under a general liability insurance policy providing minimum coverage of one million dollars for injury or death to any person arising out of the operation of any massage establishment subject to the provisions of this chapter and the administration of a massage.

(m) – (n) [Text unchanged.]

(o) Doors. All doors shall comply with building requirements.

(p) Access. No person(s) other than valid licensees issued pursuant to this chapter, and customers or patrons of the establishment, shall be allowed beyond the front lobby, located directly inside the front door entrance during hours of operation. Any other person(s) found beyond the first interior door leading to the inside of the business including, but not limited to, hallways, massage rooms, reception/business offices or lounge area will be in violation of this section. Entry doors to any room shall not be obstructed by any means.

(q) – (s) [Text unchanged.]

9.41.150. Location. [Text unchanged.]

9.41.160. Application to existing establishments.

Each owner or operator of a massage establishment and each licensed massage therapist legally doing business on the effective date of this chapter shall comply with all new requirements which are prerequisites for issuance of a license and all new operational requirements by July 1, 2000. The voluntary CAMTC certification is effective September 1, 2009.

9.41.170. Off-premises massage.

(a) Any person licensed by the City of Sunnyvale as a massage therapist pursuant to this chapter shall not conduct, participate or engage in any massage in any public place, with or without consideration.

(b) – (e) [Text unchanged.]

(f) This section shall not apply to CAMTC certified massage therapists or practitioners.

9.41.180. Inspection by officials. [Text unchanged.]

9.41.190. Issuance of notice of violation.

Whenever the director of public safety, makes an inspection of a massage establishment and finds that any applicable provision of this chapter has been violated, the director shall give notice of such violation by means of an inspection report or other written notice. In any such notification, the director of public safety shall:

- (a) Set forth the specific violation or violations found;
- (b) Establish a specific and reasonable period of time for the correction of the violation or violations. If the director of public safety determines that the violation or violations are minor in nature, the director of public safety may issue a warning to the licensee that any further violation of this chapter may result in the filing of a complaint for revocation or suspension of the license;
- (c) State that failure to comply with any notice issued in accordance with the provisions of this chapter may result in the director of public safety filing a complaint for revocation or suspension of the license.

9.41.195 Reporting CAMTC Certification Violations.

Whenever the director of public safety, makes an inspection of a massage establishment with CAMTC certified persons and finds that a provision of Business and Professions Code Sections 4600 et seq. may have been violated, the director shall give the CAMTC appropriate notice.

9.41.200. Business license—Business name.

In addition to any license required by this chapter, every massage establishment shall obtain and maintain in force and effect a business license and pay the business license tax pursuant to Chapter 5.04. No more than one business license shall be issued for any single address or premises subject to the provisions of this chapter. The person whose name appears on the business license application shall be deemed to be the owner of the massage establishment for purposes of this chapter. No person shall operate a massage establishment under any name or conduct business under any designation not specified in the license.

9.41.210. Business location change. [Text unchanged.]

9.41.220. Sale or transfer of massage establishment interest.

A sale or transfer of any interest in a massage establishment, which interest would be reported as required in this chapter upon application for a massage establishment license, shall be reported to the director of public safety within ten days of such sale or transfer. The director of public safety shall investigate any person receiving any interest in a massage establishment as a result of such sale or transfer, and if such person satisfies the requirements relating to massage establishment license applicants, the existing license shall be endorsed to include such person. A fee established by resolution of the city council shall be paid to the city for the investigation by the director of public safety necessitated by each such sale or transfer.

9.41.230. Display of licenses and certifications.

The owner or operator of a massage establishment shall display the massage establishment license and the license or CAMTC certification of each and every massage therapist or massage therapist trainee employed in the establishment in an open and conspicuous place on the premises. Passport-size photographs of the

licensees shall be affixed to the respective license(s) on display pursuant to this section. Home addresses of massage therapists and massage therapist trainees need not be displayed.

9.41.240. Exemptions. [Text unchanged.]

9.41.250. Massage establishment license—Suspension or revocation.

Any license issued for a massage establishment may be revoked or suspended by the director of public safety pursuant to Section 9.41.270 where it is found that:

- (a) The licensee has violated any applicable provisions of this chapter; or
- (b) The licensee is CAMTC certified and has violated a provision of the Business and Professions Code Sections 4600 et seq.; or
- (c) The licensee is a person who has engaged in disqualifying conduct, as described in Section 9.41.030(e); or
- (d) The licensee has failed to comply with one or more of the facilities and operations requirements of Sections 9.41.130 and 9.41.140; or
- (e) The licensee has engaged in fraud, misrepresentation or false statement in conducting the massage establishment; or
- (f) The licensee has continued to operate the massage establishment after the licensee has been suspended; or
- (g) The licensee has allowed a person to work as a massage therapist or trainee who:
 - (1) Does not have a valid license; or
 - (2) Has engaged in conduct or has been convicted of an offense described in Section 9.41.030(e) where the licensee has actual or constructive knowledge of such conduct or conviction.

9.41.260. Massage therapist or trainee license—Suspension or revocation.

Any massage therapist or trainee license may be revoked or suspended by the director of public safety, pursuant to Section 9.41.260 where it is found that:

- (a) – (c) [Text unchanged.]
- (d) The licensee has made a material misstatement in the application for a license.

9.41.270. Procedure for revocation or suspension of licenses.

(a) The director of public safety shall give prior written notice of a hearing for the revocation or suspension of any license granted pursuant to this chapter to the holder of the license. The notice shall set forth the time and place of the hearing, the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual issues in support thereof. The notice shall be mailed, postage prepaid, addressed to the licensee at the last known address of the licensee, or it shall be delivered to the licensee personally, at least ten days prior to the hearing date.

(b) Within ten days of the hearing the director of public safety shall render his or her opinion in writing, stating his or her findings and the action taken, if any. The decision shall be mailed, postage prepaid, to the licensee at the last known address of the licensee, or delivered to the licensee personally.

(c) Within ten days from the deposit of the decision in the mail or its receipt by the licensee, whichever occurs first, the licensee may appeal the decision in writing to the city manager, setting forth with peculiarity the ground or grounds for the appeal.

(d) The city manager shall set a time and place for the hearing on the appeal not less than ten days from the date the appeal was received by the city manager. The hearing shall be conducted in accordance with the provisions of this chapter.

(e) After the hearing on the appeal, the city manager may refer the matter back to the director of public safety for a new investigation and decision, may affirm the decision of the director of public safety, may dismiss the disciplinary action, or may revoke or suspend the license. The decision of the city manager upon such appeal shall be final.

9.41.280. Hearing rules. [Text unchanged.]

9.41.290. Reapplication after denial—No refund of fee—Return of license.

(a) An applicant for a license under this chapter whose application for such license has been denied may not reapply for such license until after a period of not less than one year has elapsed from the date such notice of denial was deposited in the mail or received by the applicant, whichever occurs first; provided, however, that an earlier reapplication may be made if accompanied by evidence that the ground or grounds for denial of the application no longer exist.

(b) No refund or rebate of a license fee shall be allowed by the reason of the fact that the licensee discontinues an activity for which a license or permit is required pursuant to this chapter, or that the license is suspended or revoked.

(c) In the event that a license is canceled, suspended, revoked, or invalidated, the licensee shall forward it to the officer who issued it not later than the end of the third business day after notification of the cancellation, suspension, revocation, or invalidation.

9.41.300. Violation—Penalty—Time limit on license reissuance.

(a) In addition to the penalties specified in this chapter, including revocation of a license, any person found to be in violation of any provision of this chapter shall be subject to the enforcement remedies set forth in Title 1, at the discretion of the city, including, but not limited to, prosecution as a misdemeanor violation punishable as set forth in Chapter 1.04;

(b) Each violation of this chapter and each day of violation of this chapter shall be considered as separate and distinct violations thereof and the imposition of a penalty shall be as set forth in subsection (a) of this section for each and every separate violation and each and every day of violation.

(c) In the event that the massage establishment license is revoked pursuant to Section 9.41.270 above, no massage establishment license shall issue to that premises, address or location, or to that licensee, for a period of five years from the date of revocation of the massage establishment license.

SECTION 2. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 3. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on January 26, 2010, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2010, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney