

ORDINANCE NO. _____
(Codified)

**ORDINANCE OF THE CITY OF CHICO ADDING CHAPTER 5.44 TO THE CITY OF
CHICO MUNICIPAL CODE TO REGULATE MASSAGE THERAPY
ESTABLISHMENTS WITHIN THE CITY OF CHICO**

WHEREAS, the City Council of the City of Chico recognizes that massage is a valid professional field which can offer the public valuable health and therapeutic services, but unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the community; and

WHEREAS, the California legislature and courts have long recognized the necessity of imposing reasonable regulations and standards for the operation of massage businesses, including, but not limited to, minimum education and experience requirements, passage of a practical examination of competence, sanitary conditions, hours of operation, and other operational regulations designed to minimize opportunities for illegal activities and to ensure the protection of health, safety and welfare of citizens; and

WHEREAS, the application, education, health and safety requirements imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City of Chico; and

WHEREAS, there is significant risk of injury to patrons of massage businesses by improperly trained or poorly educated massage therapists; and

WHEREAS, the presence of businesses known or reputed to be places of prostitution or other illegal activity can have an adverse impact on surrounding properties and result in blight, foster further illegal activities, and generally become a public nuisance; and

WHEREAS, the amendments are exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) as they do not propose any construction, demolition, or other activity that has the potential for causing a significant effect on the environment.

BE IT ORDAINED by the Council of the City of Chico:

Section 1. Chapter 5.44 of the Chico Municipal Code is hereby added to regulate massage establishments within the City of Chico as follows:

CHAPTER 5.44 – MASSAGE THERAPY ESTABLISHMENTS

5.44.010 Purpose and intent.

In enacting this chapter, the City Council recognizes that massage therapy is a valid professional field which can offer the public valuable health and therapeutic services, but unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the community.

It is the purpose and intent of this chapter to provide for the orderly regulation of offices and establishments providing massage therapy services, and to prevent and discourage the misuse of massage therapy as a front for human trafficking, prostitution, and other related activities in violation of State law.

It is the further intent of this chapter to protect the interests of public health, safety, and welfare, by providing certain minimum building, sanitation, and operation standards for such businesses, and by requiring certain minimum qualifications for the operators and practitioners of such businesses.

It is the purpose and intent of the City Council that this chapter relies upon Chapter 10.5 of Division 2 of the California Business and Professions Code at Section 4600, et seq. (the “Massage Therapy Act”), which created a statewide system for issuing certificates to massage therapists and massage practitioners, as well as the City’s regulatory authority over local massage establishments pursuant to the State Constitution and provisions of Government Code Sections 37100, 51030, et seq., and Business and Professions Code Sections 460, 16000, 4600 through 4621.

5.44.020 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 that are given in this section:

“Applicant” means an owner or operator filing an application for a massage establishment permit.

“Authorized massage professional” means a massage professional who is identified in a permit issued pursuant to this chapter as a person employed or retained by a massage establishment to practice massage.

1 “Business” includes, but not by way of limitation, everything about which a person can be
2 employed, and means that which occupies the time, attention, and labor of men and women by
3 varied and diverse methods of dealing with each other, to improve their individual economic
4 conditions, and for the purposes of this chapter shall include, without limitation, the advertising
5 and soliciting of massages. The term “business” includes, but is not limited to, a massage
6 practitioner who is the sole owner, operator and employee of a massage business operating as a
7 sole proprietorship, as well as a massage establishment which employs massage practitioners and
8 therapists.

9 “California Massage Therapy Council” or “CAMTC” means the massage therapy organization
10 formed pursuant to Business and Professions Code Section 4600 et seq.

11 “CAMTC Certificate” means a current and valid certificate issued by the CAMTC to a massage
12 practitioner or massage therapist.

13 “CAMTC-certified massage professional” means any individual currently certified by the
14 California Massage Therapy Council as a massage therapist or massage practitioner pursuant
15 to Business and Professions Code Section 4600 et seq.

16 “Compensation” means the payment, loan, advance, donation, contribution, deposit, exchange, or
17 gift of money or anything of value.

18 “Director” means the Community Development Director or his or her designee charged with the
19 administration of this chapter.

20 “Inspector” means the person or persons designated by the City to conduct any inspections
21 required or permitted under this chapter.

22 “Massage,” “massage therapy,” and/or “bodywork” for purposes of this chapter mean the skillful
23 application of touch, including but not limited to, pressure, stroking, kneading, compression on or
24 movement of the external surfaces of the body by a practitioner to produce increased awareness,
25 relaxation, pain relief, injury rehabilitation, or neuromuscular reeducation.

26 “Massage establishment” means any business that offers massage therapy, baths or health
27 treatments including, but not limited to, aromatherapy, vapor, shower, electric tub, sponge, hot
28 towels, mineral fermentation, sauna, steam or any other type of bath, involving massages or baths

1 in exchange for compensation. Home-based massage businesses and businesses that provide
2 outcall massage services are also considered to be massage establishments. For purposes of this
3 chapter, the term “massage establishment” may be applied to include establishments which offer
4 or advertise themselves as providing “relaxation” or “tanning” where the essential nature of the
5 interaction between the employee and the customer involves “massage” as defined herein. The
6 terms, names or phrases listed on business license or fictitious name application forms are not
7 necessarily conclusive as to the nature of the business.

8 “Owner” or “massage establishment owner” means any of the following persons:

- 9 1. The sole proprietor of a sole proprietorship operating a massage establishment.
- 10 2. Any general partner of a general or limited partnership that owns a massage establishment.
- 11 3. Any person who has a ten percent or greater ownership interest in a corporation that owns
12 a massage establishment.
- 13 4. Any person who is a member of a limited liability company that owns a massage
14 establishment.
- 15 5. All owners of any other type of business association that owns a massage establishment.

16 “Operator” or “massage establishment operator” means any person who is an owner or manager
17 of a massage establishment.

18 “Outcall massage service” means the engaging in or carrying on of massage therapy for
19 compensation at locations other than a massage establishment at a fixed location.

20 “Patron” means an individual on the premises of a massage establishment for the purpose of
21 receiving massage therapy.

22 “Permit” means a massage establishment permit issued pursuant to this chapter.

23 “Permittee” means any owner of a massage establishment that has obtained a permit to operate
24 within the city pursuant to Section 5.44.090.

25 “Person” means any individual, firm, association, partnership, corporation, joint venture, limited
26 liability company, or combination of individuals.

27 “Reception and waiting area” means an area immediately inside the front door of the massage
28 business dedicated to the reception and waiting of patrons of the massage business and visitors,

1 and which is not a massage therapy room or otherwise used for the provision of massage therapy
2 services.

3 “School of massage” means any school or institution of learning that is recognized as an approved
4 school pursuant to Business and Professions Code Division 2, Chapter 10.5, as currently drafted
5 or as may be amended.

6 “Sole proprietorship” means and includes any legal form of business organization where the
7 business owner (sometimes referred to as the “sole proprietor”) is the only person employed by
8 that business to provide massage services.

9 “Visitor” means any individual not retained or employed by the massage establishment and not
10 receiving or waiting to receive massage therapy services, but excluding law enforcement personnel
11 or governmental officials performing governmental business.

12 13 **5.44.030 Business license and other permits and authorizations required.**

14 The requirements of this chapter are in addition to:

15 A. Any business license and business license tax requirements imposed pursuant to Chapter 3.32
16 of the Chico Municipal Code.

17 B. Any permits or authorizations that may be required under other applicable laws, including but
18 not limited to, the city’s building, fire, zoning, and health regulations.

19 20 **5.44.040 Exemptions.**

21 The provisions of this chapter shall not apply to the following establishments or classes of
22 individuals who perform massage while employed in their professional capacities:

23 A. Physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists, or
24 acupuncturists, who are duly licensed to practice their respective professions in the State of
25 California and persons working directly under the supervision of such licensed persons. “Working
26 directly under the supervision” means that the person is an employee of the licensed person, is
27 working at the same location as the licensed person, has his or her work supervised by the licensed
28 person, and that the licensed person is present when the employee is performing massage. This

1 exemption shall not apply if the business performs massage on persons for whom the licensed
2 person does not provide professional services.

3 B. Trainers of any amateur, semi-professional, or professional athlete or athletic team, so long
4 as such persons do not practice massage therapy as their primary occupation at any location where
5 they provide such services in the city.

6 C. Barbers, estheticians, manicurists, and cosmetologists who are duly licensed under the laws
7 of the State of California, while engaging in practices within the scope of their licenses, except
8 that this provision shall apply solely to the massaging of the neck, face, hands and feet, and/or
9 scalp of the patrons, and this exception shall not apply to full body massage.

10 D. Individuals administering massages or health treatments involving massage to persons
11 participating in single-occurrence athletic, recreational, or educational events such as road races,
12 track meets, triathlons, educational events, or conferences, provided that the event is open to the
13 public or to a significant segment of the public such as employees of sponsoring or participating
14 corporations, and the massage services are provided at the site of the event during, immediately
15 preceding, or immediately following the event.

16 E. Somatic practitioners who use no physical touch of any kind at any time in their practice.

17 F. Enrolled students of a school of massage when they are performing massage within the city
18 as part of a formal supervised internship or training program operated by the school, without
19 compensation other than school credit, on the premises of a massage establishment duly authorized
20 to operate pursuant to the terms of this chapter; and provided that the operator of the massage
21 establishment has first notified the director in writing of the name, residence address, and school
22 of the students and the dates of the trainings

23 **5.44.050 CAMTC certification required.**

24 It shall be unlawful for any person to practice massage therapy for compensation within the city
25 unless that person is a CAMTC certified massage professional.

26 It shall be unlawful for a massage establishment to employ or retain any person to practice massage
27 therapy for compensation, or to allow any person to perform massage therapy for compensation
28

1 on the premises of a massage establishment, unless that person is a CAMTC certified massage
2 professional.

3
4 **5.44.060 Limited exception from CAMTC certification requirement.**

5 A. The city recognizes that some massage therapists and massage practitioners currently
6 practicing in the city may not meet the current requirements set forth by the CAMTC due to
7 changes in educational or other requirements, particularly changes in requirements concerning
8 hours of schooling, although the person has been in practice for a significant period. The city will
9 therefore allow individuals who were working in the city prior to the passage of this chapter and
10 meet the requirements of this section to practice massage under this exception without certification
11 from the CAMTC.

12 B. Individuals who do not submit an initial application for the exception described in this
13 section within 60 days of the effective date of this ordinance shall be ineligible to qualify for the
14 exception.

15 C. An individual seeking this exception must demonstrate the following to the satisfaction of
16 the city's code enforcement department:

17 1. Evidence that he or she worked as a massage therapist or massage practitioner in the
18 city for a professional listed in Section 5.44.040(A) of this chapter on an ongoing basis for at least
19 five years prior to the effective date of this of this ordinance, and is currently employed with that
20 professional; and

21 2. Evidence that he or she has certification or proof of training in the field of massage from
22 a school or another entity comparable to the CAMTC and has been working as a massage therapist
23 or massage practitioner for a period of at least five years; and

24 3. Evidence that he or she attempted to obtain certification from the CAMTC but was
25 denied and the reasons for the denial to show that despite existing training and expertise, he or she
26 was not able to qualify for certification from CAMTC; and

1 4. Compliance with other terms of this chapter for massage establishment owners that are
2 not certified by the CAMTC, including, but not limited to, the background check described in
3 Section 5.44.080(J) of this chapter.

4 D. An individual granted an exception from the CAMTC certification requirement is required
5 to display, in the same manner this chapter requires the display of CAMTC certification, a
6 statement from the city showing that the person met the requirements of this exception.

7 E. This exception must be renewed annually. Failure to submit an application for renewal on
8 or before the annual renewal date shall make the individual ineligible for a continued exception.

9 F. Approved exceptions shall apply only to a massage practitioner's ongoing practice with
10 the professional(s) stated in subsection (C)(1) of this section. Approved exceptions shall become
11 invalid and CAMTC certification shall be required pursuant to Section 5.44.050 when an
12 individual changes employment and/or accepts employment with new, additional professionals or
13 massage establishments within the city.

14 G. The city may establish a non-refundable fee to recover costs associated with initial
15 applications and annual renewals.

16 H. This section shall remain in effect only until January 1, 2026. All massage practitioners
17 must comply with Section 5.44.050 beginning January 1, 2026.

18 **5.44.070 Massage establishment permit required—Prohibited conduct.**

19 A. It is unlawful for any person to operate a massage establishment within the city without
20 first obtaining a massage establishment permit from the Community Development Department.

21 B. On or after the effective date of this ordinance, it shall be unlawful for a massage
22 establishment operator to employ or retain any person to practice massage therapy for
23 compensation, or to allow any person to perform massage therapy for compensation on the
24 premises of a massage establishment, unless that person is a CAMTC-certified massage
25 professional and unless that person is identified as an authorized massage professional on the
26 permit issued pursuant to this chapter. For purposes of this chapter, a massage establishment
27 operator "employs or retains" a person to practice massage therapy for compensation when:

28 1. That person is a directly paid employee of the massage establishment; or

1 2. That person's association with a massage establishment is that of an independent
2 contractor who receives compensation for massage therapy provided to patrons of the massage
3 establishment; or

4 3. That person receives a referral of patrons from the massage establishment and, at any
5 time before or after the referral, arranges in any way for compensation to flow to the massage
6 establishment operator.

7 C. It is unlawful for a massage establishment to operate under any name or conduct business
8 under any designation not specified in the massage establishment permit issued pursuant to this
9 chapter.

10 D. It is unlawful for a massage establishment to continue to operate following the sale or
11 transfer of any interest in the massage establishment to a person who was not identified as an
12 owner in the massage establishment permit application.

13 **5.44.080 Permit application.**

14
15 The owners of the massage establishment shall file an application for a permit on a form provided
16 by the director. The application shall be accompanied by the fee established by the city's fee
17 schedule. The application shall include the following information:

18 A. The name, address, and telephone number of the massage establishment.

19 B. The name, residence address and telephone number, and business address and telephone
20 number of each owner of the massage establishment.

21 C. The form of business under which the applicant will be conducting the massage
22 establishment, i.e., corporation, general or limited partnership, limited liability company, or other
23 form. If the applicant is a corporation, the name of the corporation shall be set forth exactly as
24 shown in its articles of incorporation, together with the names and residence addresses of each of
25 its officers, directors, and each shareholder holding more than ten percent of the stock of the
26 corporation. If the applicant is a general or limited partnership, the application shall set forth the
27 name and residence address of each of the partners, including limited partners. If one or more of
28 the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall

1 apply. If the applicant is a limited liability company, the application shall set forth the name and
2 residence address of each of the members. If one or more of the members is a partnership, limited
3 liability company, or corporation, the provisions of this section pertaining to a partnership, limited
4 liability company, or corporate applicant shall apply, as applicable.

5 D. The name, address, and telephone number of the owner of the real property upon, in, or
6 from which the certified massage establishment is to be operated. In the event the applicant is not
7 the legal owner of the property, the application shall be accompanied by a copy of any written
8 lease between the applicant and the property owner authorizing use of the premises for a massage
9 establishment, or, alternatively, if there is no written lease, then a written, notarized
10 acknowledgment from the property owner that the property owner has been advised that a massage
11 establishment will be operated by the applicant upon, in, or from the property owner's property.

12 If the massage establishment will be located on a property in a residential or commercial
13 condominium or other common interest development, the applicant shall submit a notarized
14 statement from the homeowner's association or condominium owner's association acknowledging
15 that the association has been advised that a massage establishment will be operated by the applicant
16 and that such use of the property is allowed by the property's covenants, codes, and restrictions.

17 E. A description of the proposed massage establishment, including the type of treatments to
18 be administered.

19 F. The name of each individual who the massage establishment employs or retains to perform
20 massage therapy for compensation, whether on or off the massage establishment premises.

21 G. The name of each individual who is regularly employed or retained by the massage
22 establishment to perform services on the premises other than massage therapy, and the nature of
23 their services.

24 H. For each individual who the massage establishment does or will employ or retain to
25 perform massage therapy for compensation, whether on or off the massage establishment premises,
26 a copy of that individual's current certification from the CAMTC as a certified massage
27 practitioner or certified massage therapist, and a copy of his or her current CAMTC-issued
28 identification card.

1 I. For each owner of the massage establishment who is a CAMTC-certified massage
2 professional, a copy of his or her current certification from the CAMTC as a certified massage
3 practitioner or as a certified massage therapist and a copy of his or her current CAMTC-issued
4 identification card.

5 J. For each owner of the massage establishment who is not a CAMTC-certified massage
6 professional, the following information:

7 1. Whether any owner of the massage establishment has, within the five years immediately
8 preceding the date of application been convicted of any felony in any state.

9 2. Whether any owner of the massage establishment is currently required to register under
10 the provisions of Section 290 of the California Penal Code.

11 3. The business, occupation, and employment history of each owner of the massage
12 establishment for five years preceding the date of application, and the inclusive dates of same.

13 4. One set of fingerprints to be taken at the permit authority, and any required fee for such
14 fingerprinting shall be paid by the applicant.

15 K. Whether any certificate, license or permit has ever been issued to the applicant by any
16 jurisdiction under the provisions of any ordinance or statute governing massage or somatic
17 practice, and as to any such certificate, license or permit, the name and address of the issuing
18 authority, the effective dates of such certificate, license or permit, whether such certificate, license
19 or permit was ever suspended, revoked, withdrawn, or denied; and copies of any documentary
20 materials relating to such suspension, revocation, withdrawal, or denial.

21 L. Such other information as may be required by the permit authority to determine compliance
22 with any other eligibility requirements for issuance of the permit as specified by federal, state, or
23 local law.

24 M. A statement that within the last five years the applicant has not failed to comply with a
25 final court order or administrative action of an investigatory agency finding a violation of
26 applicable federal, state and local wage and hour laws, including, but not limited to, the Federal
27 Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or
28

1 prevailing wage requirements. For purposes of this subsection, a final court order or administrative
2 action is one as to which there is no pending appeal and the time for filing an appeal has passed.

3 N. A statement attesting to the following:

4 1. The owner will only employ or retain CAMTC certified massage professionals, and
5 failure to comply may result in the suspension or revocation of the massage establishment permit.

6 2. The owner authorizes the code enforcement department to investigate the truth of the
7 information contained in the application.

8 3. The owner will be responsible for the conduct of all massage establishment operators,
9 employees, agents, independent contractors, or other representatives while such persons are on the
10 premises of the massage establishment or providing out-call massage services, and that failure to
11 comply with the provisions of this chapter and any federal, state or local law may result in the
12 suspension or revocation of the massage establishment permit.

13 4. The owner certifies under penalty of perjury that all information contained in the
14 application is true and correct.

15 **5.44.090 Permit issuance.**

16
17 The director shall issue a massage establishment permit if the applicant meets the requirements of
18 this chapter and no grounds for denial exist under Section 5.44.120. The director may impose
19 conditions on the permit consistent with this chapter and applicable law.

20 **5.44.100 Notice to Property Owner.**

21
22 If the applicant is not the record owner of the property where the massage establishment is located,
23 the director may send a written notice to the property owner advising of the issuance of the permit
24 and of the regulations applicable to the massage establishment. The director may also provide the
25 property owner with copies of any other notices or communications with the applicant sent at any
26 time before or after issuance of the permit.

1 **5.44.110 Term.**

2 A massage establishment permit issued pursuant to the terms of this chapter shall be valid for a
3 term of one year from the date of issuance, and, unless suspended or revoked, must be renewed by
4 the massage establishment operator annually so long as the massage establishment is operating
5 within the city.

6 **5.44.120 Permit denial.**

7
8 The director may deny an application for a massage establishment permit on any of the following
9 grounds:

10 A. The massage establishment, as proposed by the applicant, would not comply with the
11 requirements of this chapter.

12 B. The massage establishment, as proposed by the applicant, would not comply with any
13 applicable law, including, but not limited to the city's building, fire, zoning, and health regulations.

14 C. The applicant has knowingly made any false, misleading or fraudulent statement of
15 material fact in the application for a massage establishment permit.

16 D. Any owner of the massage establishment is currently required to register under the
17 provisions of Section 290 of the California Penal Code.

18 E. Any owner of the massage establishment, within five years of the date of application, has
19 been convicted in a court of competent jurisdiction of any violation of Sections 266, 266a, 266e,
20 266f, 266g, 266h, 266i, 266j, 315, 316, 318, or 647(b), of the California Penal Code, or conspiracy
21 or attempt to commit any such offense, or any offense in a jurisdiction outside of the State of
22 California that is the equivalent of any of the aforesaid offenses.

23 F. Any owner of the massage establishment has been subjected to a permanent injunction
24 against the conducting or maintaining of a nuisance pursuant to Sections 11225 through 11235 of
25 the California Penal Code, or any similar provision of law in a jurisdiction outside the State of
26 California.

27 G. Any owner of the massage establishment is an individual who has not attained the age of
28 eighteen years.

1 H. Any owner of the massage establishment, within five years immediately preceding the date
2 of filing of the application, has had a permit or license to practice massage for compensation or to
3 own and/or operate a massage establishment revoked or denied in any jurisdiction.

4 I. The applicant has had any massage therapist or massage practitioner permit, license, or
5 certification denied, revoked or suspended by the CAMTC.

6 J. The applicant has committed an act in another jurisdiction which, if committed in this state,
7 would have been a violation of law and which, if done by an operator under this chapter, would be
8 grounds for denial, suspension or revocation of the permit.

9 K. Any owner of the massage establishment currently owns or operates a massage
10 establishment in the City of Chico that is not in good standing due to the existence of uncorrected
11 violations or unpaid fines or fees.

12 L. Within the last five years, the applicant has failed to comply with a final court order or
13 administrative action of an investigatory agency finding a violation of applicable federal, state and
14 local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the
15 California Labor Code, and any local minimum wage ordinance or prevailing wage requirements.
16 For purposes of this subsection, a final court order or administrative action is one as to which there
17 is no pending appeal and the time for filing an appeal has passed.

18 **5.44.130 Notice of denial—Appeal.**

19
20 A. If an application for a massage establishment permit is denied, the director shall give
21 written notice to the applicant specifying the grounds for denial.

22 B. The applicant may appeal the decision to deny a massage establishment permit by filing a
23 written notice of appeal with the city manager, and the city manager shall issue a written decision,
24 in accordance with the procedures set forth in Section 5.44.200.

25 **5.44.140 Amendments to permit.**

26
27 A. Whenever the information provided in the application for a certified massage establishment
28 on file with the city changes, the operator shall file an application, provided by the director, to

1 amend the permit to reflect such change. An application to amend a massage establishment permit
2 shall be made by submitting an application on a form provided by the director. The application
3 shall be accompanied by the fee established by the city's fee schedule.

4 B. The application shall not be approved unless the director determines that the terms of the
5 amended permit comply with all requirements of this chapter and all other local, state, and federal
6 laws, and the massage establishment has no outstanding violations or unpaid citations or fees.
7 Inspection of the massage establishment may be required prior to approval of the amendment.

8 C. An amendment shall not be used to change the location or owners of a massage
9 establishment. Instead, a new permit application is required.

10 D. A denial of an application to amend a massage establishment permit may be appealed in
11 the same manner as a denial of an application for a permit under Section 5.44.130.

12 **5.44.150 Operating requirements.**

13
14 A. No person, owner or operator shall engage in, conduct, carry on, or permit any massage
15 unless all of the following requirements are met. Except as otherwise specifically provided in this
16 chapter, the following operational requirements shall be applicable to all massage establishments
17 located within the city:

18 1. No massage establishment shall be kept open for business between the hours of 10:00
19 p.m. of one day and 7:00 a.m. of the following day. A massage begun any time before 10:00 p.m.
20 must nevertheless terminate at 10:00 p.m. The hours of operation of the massage establishment
21 shall be displayed in a conspicuous public place in the reception and waiting area and in any front
22 window clearly visible from outside of the massage establishment.

23 2. Patrons and visitors shall be permitted in the massage establishment only during the
24 hours of operation.

25 3. During the hours of operation, patrons shall be permitted in massage therapy rooms only
26 if at least one duly authorized certified massage professional is present on the premise of the
27 massage establishment. Patrons shall not be permitted in any employee break room on the
28 premises.

1 4. During the hours of operation, visitors shall not be permitted in massage therapy rooms
2 except as follows:

3 a. The parents or guardian of a patron who is a minor child may be present in the
4 massage therapy room with that minor child;

5 b. The minor child of a patron may be present in the massage therapy room with the
6 patron when necessary for the supervision of the child; or

7 c. The conservator, aid, or other caretaker of a patron who is elderly or disabled may
8 be present in the massage therapy room with that elderly or disabled person.

9 5. During the hours of operation, except as otherwise provided herein, no visitors shall be
10 permitted in massage therapy rooms, break rooms, dressing rooms, showers, or any other room or
11 part of the massage establishment premises other than the reception and waiting area or toilet
12 rooms.

13 6. Except for a patron who is inside a massage therapy room for the purpose of receiving
14 a massage, no patrons or visitors shall be permitted in or on the massage establishment premises
15 at any time who are less than fully clothed in outer garments of nontransparent material, or who
16 display or expose themselves in underclothing or similar intimate apparel.

17 7. A list of services available and the cost of such services shall be posted in an open and
18 conspicuous public place on the premises. The services shall be described in English and may also
19 be described in such other languages as may be convenient. No massage establishment operator
20 shall permit, and no person employed or retained by the massage establishment shall offer to
21 perform any services or request or demand fees other than those posted.

22 8. All payments for massage therapy services, including gratuities or tips, shall be made
23 only in the designated reception and waiting area and not in the massage therapy room. Any
24 gratuities or tips that are solicited from the client in violation of this provision shall be presumed
25 to be for the purpose of committing a sexually related act and may be grounds for the suspension
26 or revocation of the owner's massage establishment permit.

27 9. No condoms, or written, digital and/or multimedia material or merchandise of a sexually
28 explicit nature, shall be furnished, used, stored or kept on the premises of a massage establishment.

10. The massage establishment shall keep on the premises a complete and current roster
of all owners, operators, and managing employees of the massage establishment. The roster shall

1 include the name, residence address, and phone number of each individual. The roster shall be
2 available for inspection by city officials charged with enforcement of this chapter.

3 11. No electrical, mechanical or artificial device shall be used by the massage
4 establishment for audio and/or video recording or for monitoring the performance of a massage,
5 or the conversation or other sounds in the massage therapy room or cubicle, without the knowledge
6 or written consent of the client.

7 12. No person who has not reached eighteen years of age shall provide massage for
8 compensation or consideration of any type.

9 13. Massage shall not be provided by any person not certified by the CAMTC unless the
10 individual has a valid, approved background investigation on file with the City of Chico code
11 enforcement division and has otherwise been exempted in accordance with Section 5.44.060.

12 14. The massage establishment shall comply with all applicable state and local building
13 and fire codes as adopted in Chapter 16 of this code.

14 B. No person who has not been certified by the CAMTC shall provide massage for
15 compensation or act as an employee of a massage establishment if such person has:

16 1. Been convicted of, or entered a plea of guilty or no contest to, an offense that requires
17 registration under the Sex Offender Registration Act (Penal Code Section 290 et seq.), or which is
18 a violation of Penal Code sections 261, 261.5, 261.9, 262, 264.1, 265, 266, 266a, 266b, 266c, 266d,
19 266e, 266f, 266g, 266h, 266i, 266j, 267, 269, 285, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7,
20 289, 289.5, 289.6, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.10, 311.11, 311.12, 313.1, 314,
21 315, 316, 318 or 647(a) and (b) or equivalent offenses under the laws of another jurisdiction, even
22 if expunged pursuant to Penal Code Section 1203.4 or equivalent statute under the laws of another
23 jurisdiction.

24 2. Been convicted of, or entered a plea of guilty or no contest to, an offense involving the
25 sale, possession for purposes of sale, purchase for the purpose of sale, transport, import, export,
26 administration, gift or cultivation of a controlled substance specified in Health and Safety Code
27 Sections 11054 through 11058, inclusive, or equivalent offenses under the laws of another
28

jurisdiction, even if expunged pursuant to Penal Code Section 1203.4 or equivalent statute under the laws of another jurisdiction.

3. Been convicted of or entered a plea of guilty or no contest to a violation of Penal Code section 415 as a result of being charged for a violation of Penal Code section 647.

4. Been convicted of any state or federal law relating to the trafficking of humans for the purpose of labor or sex.

5. Suffered revocation or suspension of a certificate issued under the Massage Therapy Act (Business and Professions Code Section 4600 et seq.) unless such certificate has been restored.

C. Health and Safety Requirements. Except as otherwise specifically provided in this chapter, the following health and safety requirements shall be applicable to all massage establishments located within the city:

1. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Towels and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one client.

2. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, tanning booths, whirlpool baths and pools located at massage establishments shall be cleaned and disinfected at least once each day when such facilities have been in use.

3. All instruments used in massage shall be maintained in a clean and sanitary condition. Instruments utilized in providing massage shall not be used on more than one client unless they have been sterilized or sanitized.

4. No dressing room shall be occupied by more than one person at a time except in the case where occupation is by a parent or legal guardian to a child then present or when the presence of an individual necessary to accommodate a disability is required.

5. No room where massage is provided shall be occupied by a person other than the client and massage professional except in the case where occupation is by a care giver, parent or legal guardian to a child then present, when the presence of an individual necessary to accommodate a disability is required, or massage is provided on a couple. When massage is provided on a couple,

1 the massage establishment shall provide two massage tables, one for each individual client and
2 two massage professionals to provide massage for compensation.

3 6. Toilet facilities shall be provided in convenient locations within the massage
4 establishment and shall consist of at least one unisex toilet with a lavatory or wash basin provided
5 with soap and both hot and cold running water.

6 7. No alcoholic beverages or controlled substances, as defined in Health and Safety Code
7 Sections 11054 through 11058, inclusive or in the Controlled Substances Act (21 U.S.C. 810 et
8 seq.), shall be sold, served, furnished, kept, consumed or possessed on the premises of any massage
9 establishment.

10 8. All massage professionals and employees of massage establishments shall wear clean,
11 non-transparent outer garments while engaged in massage for compensation. Said garments shall
12 not expose the under garments, genitals, pubic areas, buttocks, or chest and shall not be worn in
13 such manner as to expose the genitals, pubic areas, buttocks, or chest. For the purposes of this
14 section, outer garments means a garment worn over other garments and does not include garments
15 like underwear, bras, lingerie or swimsuits. Massage professionals shall not dress in swim attire
16 unless providing a water-based massage modality approved by the CAMTC.

17 9. No massage for compensation or consideration of any type shall be provided unless the
18 client's genitals, anus, or, in the case of a female, her breast(s) are at all times fully covered while
19 the massage professional or other employee is present in the same room as the client. No massage
20 shall be provided to a client that results in intentional contact, or occasional and repetitive contact,
21 with the genitals or anal region of a client.

22 10. While engaged in massage for compensation or consideration of any type, a massage
23 professional shall not make, or offer to make, physical contact with the genitals of any other
24 persons regardless of whether the contact is over or under the persons' clothing nor shall the
25 massage professional permit, or offer to permit, the client to make physical contact with the
26 genitals of the massage professional regardless of whether the contact is over or under the massage
27 professional's clothing. Notwithstanding, massage of the female breasts by the massage
28

professional is permissible with the written consent of the client and delivery to the massage professional by the client of a written referral from a licensed health care provider.

D. A massage professional shall operate only under the name provided to the code enforcement division on the massage establishment permit application required under Massage Establishment Permit Required Section 5.44.070 and Permit Application Section 5.44.080.

E. It is unlawful for a massage establishment to continue to operate following the sale or transfer of any interest in the massage establishment to a person who was not identified as an owner in the massage establishment permit application.

F. No person providing massage may advertise to provide sexual services or other acts prohibited by this chapter; in print, billboards, text or SMS messaging, online webpages or postings, digital media, multimedia, via radio or television.

G. No person or massage business shall advertise their services or business using a format that commonly advertises, solicits, or facilitates sexual services, pornography, illegal or prohibited services, such as escort services, prostitution or illicit drugs.

5.44.160 Provisions applicable to location.

No person shall provide massage, operate a massage establishment or provide property for the operation of a massage establishment at a particular location if:

A. That person or massage establishment is or was operating at that particular location within the prior thirty-six months and that massage establishment or any employee of that massage establishment has been found liable by means of the procedures set forth in Chapter 1.15 of the Chico Municipal Code for violating any provision of this chapter, except when such finding of liability is pending appeal to a hearing officer or review in a court of competent jurisdiction, or if the massage establishment or an employee of that massage establishment has been found guilty of a violation of this chapter or any of the statutes specifically referenced in Section 5.44.150(C). For purposes of this section, a plea of “no contest” is a finding of guilt.

B. Another massage establishment is or was operating at that particular location within the prior thirty-six months and that massage establishment or any employee of that massage

1 establishment has been found liable by means of the procedures set forth in Chapter 1.15 the Chico
2 Municipal Code for violating any provision of this chapter, except when such finding of liability
3 is pending appeal to a hearing officer or review in a court of competent jurisdiction, or if the
4 massage establishment or an employee of that massage establishment has been found guilty of a
5 violation of this chapter or any of the statutes specifically referenced in Section 5.44.150(C).

6 C. Another massage establishment is or was operating at that particular location within the
7 prior thirty-six months and that massage business has outstanding unpaid fines or penalties,
8 whether criminal, administrative or civil.

9 10 **5.44.170 Massage establishment inspections.**

11 A. All persons providing massage and massage establishment owners and operators shall,
12 during permissible hours of operation, have on their person or immediately available at the
13 massage establishment a valid, government issued identification which identifies the individual.

14 B. The owner(s) and/or designated manager(s) shall ensure the massage professional
15 certification issued by the CAMTC for each massage professional employed at the massage
16 establishment (whether on-duty or not) is conspicuously displayed in a public place in the lobby

17 C. For the sole purpose of inspecting and verifying compliance with this chapter and otherwise
18 facilitating the functions of this chapter, the director, or his/her designee, or the Chico police chief,
19 or his/her designee, is authorized to enter massage establishments to conduct administrative
20 inspections thereof, and of the things specified in this chapter, relevant to those functions.

21 D. The inspector shall have the right to enter any massage establishment, other than an
22 establishment providing outcall-only services, during regular business hours, without a search or
23 inspection warrant, to make reasonable inspection to ascertain whether there is compliance with
24 the provisions of this chapter.

25 E. During the inspection, the massage establishment operator shall take immediate action to
26 correct each violation noted by the inspector. If the violation is not able to be immediately
27 corrected, a reinspection by the inspector/designee is required.

28 **5.44.180 Violations - Moratorium.**

1 A. For the purpose of enforcing the requirements of this chapter, all owners and operators of
2 the massage establishment shall be jointly and severally responsible for the conduct of all massage
3 establishment employees, agents, independent contractors, or other representatives while such
4 persons are on the premises of the massage establishment or providing outcall massage services
5 on behalf of the massage establishment.

6 B. In addition to any other remedy available to the city under applicable law, a massage
7 establishment permit may be suspended or revoked as provided in Sections 5.44.190 and 5.44.200.
8 Upon issuance of a final order by the director or city manager to revoke the massage permit, the
9 massage establishment shall immediately cease operation, and, if so ordered by the hearing officer,
10 no other massage establishment shall be permitted to operate at that location by any person for a
11 period of not less than thirty-six months (“the moratorium period”). If the operator is not also the
12 legal owner of the real property on which the massage establishment is situated, notice of such
13 revocation and the thirty-six-month prohibition shall be provided by the permit authority to the
14 owner of record of the property as shown on the latest county assessment roll.

15 C. In addition to any other remedy available to the city under applicable law, a massage
16 establishment permit may not be renewed or amended unless and until all due and unpaid citations
17 issued pursuant to this chapter are paid in full, and all outstanding violations have been corrected.

18 D. Notwithstanding any other provision of this chapter, where a Notice of Revocation or
19 Suspension has been issued to the operator of a massage establishment pursuant to Section
20 5.44.190 of this chapter, the director shall not process or grant an application for a massage
21 establishment permit for a new massage establishment at the same premises unless and until such
22 Notice of Revocation or Suspension is dismissed; or a final determination is made pursuant to that
23 section that the current operator’s massage establishment permit is not or should not be revoked;
24 or any moratorium period imposed pursuant to this chapter has expired.

25 **5.44.190 Revocation or suspension.**

26 A. Written notice of the suspension or revocation with the legal violation and supporting facts
27 shall be served on the massage establishment operators by either (i) personal delivery, or (ii)
28 certified and regular mail. The notice shall contain an advisement of the right to request an appeal.

1 B. All massage establishment operators shall be deemed to know and understand the
2 requirements and prohibitions of this chapter. Any massage establishment permit issued pursuant
3 to this chapter may be suspended or revoked upon any of the following grounds:

4 1. The permittee or any person employed or retained by the massage establishment has violated
5 any provision of this chapter.

6 2. There have been one or more acts prohibited under California Penal Code Sections 266,
7 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22 taking place on the
8 premises of the massage establishment, whether or not any criminal prosecution has been pursued
9 or conviction obtained for such acts, and whether or not they occurred with or without the actual
10 knowledge of the permittee.

11 3. The permittee or any person employed or retained by the massage establishment is required
12 to register under Section 290 of the California Penal Code.

13 4. The permittee or any person employed or retained by the massage establishment has been
14 denied CAMTC certification or recertification or has had their CAMTC certificate revoked.

15 5. The permittee or any person employed or retained by the massage establishment has violated
16 any provision of this chapter or of California Business and Professions Code Sections 4600 et seq.
17 In addition, any disciplinary action taken by CAMTC shall be considered in determining grounds
18 for revocation, suspension or nonrenewal. Any revocation by CAMTC of a practitioner license for
19 a provider who is a sole practitioner shall result in immediate revocation of the certificate of
20 registration and require reapplication by the sole practitioner for a new certificate of registration.

21 6. The permittee has been subject to a permanent injunction against the conducting or
22 maintaining of a nuisance pursuant to this code, or Sections 11225 through 11235 of the California
23 Penal Code, or any similar provision of law in any jurisdiction outside the State of California.

24 7. The permittee or any person employed or retained by the massage establishment has engaged
25 in fraud or misrepresentation or has knowingly made a misstatement of material fact while working
26 in or for the massage establishment.

27 8. The permittee has continued to operate the massage establishment after the massage
28 establishment permit has been suspended.

1 9. Massage has been performed on the premises of the massage establishment, with or without
2 the permittee's actual knowledge, by any person who is not a duly authorized CAMTC-certified
3 massage professional.

4 10. A person who is not a duly authorized CAMTC-certified massage professional has
5 provided outcall massage services through or on behalf of the massage establishment.

6 11. The permittee or any person employed or retained by the massage establishment or any
7 other person on the premises of the massage establishment has engaged in conduct or committed
8 acts that a reasonable person in the patron's position would understand as an offer to perform on
9 or engage in with the patron acts that are sexual in nature or that involve touching of the patron's
10 genitals, or anal region.

11 12. The permittee or any person employed or retained by the massage establishment has
12 engaged in sexually suggestive advertising related to massage services on the premises of the
13 massage establishment, including, but not limited to displaying photographs of individuals clothed
14 in swim attire, or attire that is transparent, see-through or substantially exposes the individual's
15 undergarments, breasts, buttocks, or genitals, describing massage services as "erotic," "sensual"
16 or similarly sexual in nature, listing advertisements in adult media, or describing the appearance
17 or age of massage providers.

18 13. If the permittee has failed to comply with a final court order or administrative action of an
19 investigatory agency finding a violation of applicable federal, state and local wage and hour laws,
20 including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and
21 any local minimum wage ordinance or prevailing wage requirements. For purposes of this
22 subsection, a final court order or administrative action is one as to which there is no pending appeal
23 and the time for filing an appeal has passed.

24 **5.44.200 Appeal of revocation or suspension.**

25 An appeal can be made to the city manager or his or her designee. An appeal must be received
26 within five business days from the date the notice was personally delivered, or ten business days
27 from the date the notice was mailed. The party requesting the appeal shall submit its notice of
28 appeal along with a written brief outlining the reasons it believes the suspension or revocation to

1 be in error. The appeal will be decided based solely on the written submission of the appealing
2 party, with no oral argument. The city manager or his or her designee shall render a written
3 decision within ten days of the request for appeal being received by the city manager or his or her
4 designee. If the suspension or revocation is upheld, the massage establishment shall immediately
5 close. If the appellant is not satisfied with the decision of the city manager or his or her designee,
6 the appellant may appeal to an administrative hearing officer pursuant to Chapter 1.15 of this Code.
7 The massage establishment, however, shall remain closed until the decision of the administrative
8 hearing officer is final.

9 **5.44.210 Enforcement, penalties and nuisance per se.**

10 A. The city attorney is authorized to file a civil action to recover civil penalties in an amount
11 not to exceed one thousand dollars per violation and to take any other action in law or equity which
12 he or she may deem necessary in order to enforce this chapter.

13 B. This chapter may be enforced by means of the administrative processes and remedies set
14 forth in Chapter 1.15 of the Chico Municipal Code. Administrative penalties shall be an amount
15 not to exceed one thousand dollars per violation.

16 C. This chapter is cumulative to all other remedies now or hereafter available to abate or
17 otherwise regulate, enforce or prevent public nuisances or to enforce the provisions of the Chico
18 Municipal Code.

19 D. Each violation of this chapter shall constitute a separate violation. Each client to whom
20 massage is provided or offered in violation of this chapter shall also constitute a separate violation.

21 E. Any massage establishment operated, conducted, or maintained contrary to the provisions
22 of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance, and
23 the city attorney may, in addition to or in lieu of prosecuting a criminal action hereunder,
24 commence an action or actions, proceeding or proceedings, for the abatement, removal and
25 enjoinder thereof, in the manner provided by law. Such remedies shall be in addition to any other
26 judicial and administrative penalties and remedies available to the city under this code or under
27 state law.

28 **5.44.220 Joint and several liability.**

Each person responsible for a violation, as defined in Section 1.15.040, shall be jointly and severally liable for violations of any provision set forth in this chapter.

Section 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Chico hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable. To the extent the provisions of the Chico Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 3. Effective Date. This Ordinance shall take effect thirty (30) days after the date of adoption by the City Council.

Section 4. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

THE FOREGOING ORDINANCE WAS ADOPTED at a meeting of the City Council of the City of Chico held on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

DISQUALIFIED:

ATTEST:

APPROVED AS TO FORM:

Deborah R. Presson
City Clerk

John W. Lam, City Attorney*

*Pursuant to The Charter of
the City of Chico, Section 906(E)

DRAFT