



Massage Business Permit

Statement of Understanding- Rules and Regulations

Chula Vista Municipal Code Chapter 5.36 provides rules for the orderly regulation of massage businesses and massage technicians in the City of Chula Vista in the interest of public health, safety, and welfare. The City wishes to support the ethical practice of massage therapy as a healing art and to prevent and discourage the misuse of massage therapy as a front for illegal activity such as prostitution, human trafficking, and sex crimes.

The Chula Vista Police Department is responsible for ensuring compliance with this chapter, conducting inspections, and taking enforcement action, as appropriate.

The following is only a summary of the regulations. For complete details please refer to the City of Chula Vista Municipal Code Chapter 5.36 or contact Chula Vista Police Special Investigations at (619) 691-5244. You are responsible for being familiar with and complying with all the rules and regulations related to your massage business, including additional State and Federal laws.

PLEASE READ CAREFULLY

5.36.040 California Massage Therapy Council (CAMTC) certification and City business license required.

- A. It is unlawful for any person to perform massage services in Chula Vista as a massage technician, whether full-time, part-time, or temporary status, as an employee, sole practitioner, or independent contractor of a massage business, or in any other capacity, without a valid practitioner certification issued by the CAMTC.
- B. A CAMTC massage practitioner certificate does not authorize the operation of a massage establishment. Any person who desires to operate a massage establishment must apply to the City for a business license and to the Chief of Police for a massage business permit.

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5.36.060 Massage business permit application.

- A. Application. An application for a massage business permit to the Chief of Police shall be filed on a form provided by the City and shall be signed and submitted under penalty of perjury.
- B. Fee. A permit application fee is required. The application fee, which is nonrefundable, shall be set by resolution of the City Council of the City of Chula Vista and shall be reflected in the City's Master Fee Schedule.
- C. Approval or Denial. The Chief of Police shall issue a massage business permit to operate in the City's jurisdiction to any massage business that demonstrates the following:

1. The business complies with all applicable building, zoning, fire safety, land use, health safety, state and federal laws.
2. The business uses only massage technicians who possess a current, valid and authentic CAMTC certificate.
3. The owner and operators of the massage business have provided all information required by this chapter, have not failed to reveal any fact material to qualification, and have not supplied information that is untrue or misleading as to a material fact pertaining to qualification criteria.
4. The background check for any owner or operator authorized by this chapter shows that any such individual has not been required to register under the provisions of California Penal Code Section 290 (sex offender registration); has not been convicted of a violation of California Penal Code Section 266(h) (pimping), 266(i) (pandering), 315 or 316 (keeping or residing in a house of prostitution), 647(a)(soliciting or engaging in lewd conduct in public), 647(b) (soliciting or engaging in prostitution), or 415 (disturbing the peace), when substituted for one of the previously listed offenses; has not been convicted of any felony drug-related offense involving a controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058; has not been convicted of any act involving theft, dishonesty, fraud, deceit or moral turpitude; has not been convicted in another state of any offense which, if committed in this state, would have been punishable as one or more of the aforementioned offenses; has not had an individual or business permit, certificate or license with any agency, board, city, county, territory or state denied, revoked, restricted or suspended within the last ten years; and has not been subject to an injunction for nuisance under California Penal Code Sections 11225 through 11235 (red light abatement) within the last 10 years.
5. The Chief of Police may deny a massage business permit application, or renewal application, to any massage business that fails to demonstrate compliance with the foregoing requirements. An applicant may appeal a denial pursuant to CVMC 5.36.140.
6. Term. A massage business permit is valid for one year.
7. Transfer. A massage business permit issued by the Chief of Police shall not be transferred, sold, or assigned to any other person or entity, except with the prior written permission of the Chief of Police. A written request for such transfer shall contain the same information for the new ownership as is required on an application for a new massage business permit. No massage business permit that has been suspended or revoked shall be transferred to any other person or entity for five years from the date of such suspension or revocation. Any such transfer, sale or assignment, or attempted transfer, sale, or assignment in violation of this chapter is hereby declared invalid and the permit shall become void effective on the date of such transfer, sale or assignment or attempted transfer, sale, or assignment.
8. Change of Location. A change of location of a permitted massage business shall be approved by the Chief of Police provided the massage business and the new location are in compliance with all applicable local, State and Federal laws.
9. Change of Personnel. An owner or operator shall submit to the Chief of Police an updated list pursuant to CVMC 5.36.070 within seven days of any change to the list.

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5.36.070 Massage business operating requirements.

- A. CAMTC Certificate to City. No owner or operator shall operate a massage business unless a copy of a current and valid CAMTC certificate first has been provided to the City for each massage technician performing massage services.
- B. Compliance Period for CAMTC Certificate. Within six months of the effective date of the ordinance codified in this section, an applicant for an initial Massage Business Permit or for renewal of a current, valid Massage Business Permit, pursuant to CVMC 5.36.050, shall demonstrate compliance with subsection (A) of this section by providing the City with a current

and valid CAMTC certificate for each massage technician performing massage services at the business.

C. CAMTC Certificate Posted. No owner or operator shall operate a massage business unless an original CAMTC certificate for each massage technician performing massage is posted on the business premises in public view.

D. CAMTC Identification Carried at All Times. No owner or operator shall operate a massage business unless an original CAMTC-issued identification card or badge is carried by each massage technician while providing massage services.

E. Owner or Operator On Site. An owner or operator of a massage business shall be physically present on the business premises at all times during all hours of operation.

F. Hours of Operation. A massage business may be open for business only between the hours of 6:00 a.m. to 10:00 p.m. No massage services may be offered or performed between 10:00 p.m. and 6:00 a.m.

G. List of Services Posted.

1. A list of the services available and the costs of such services shall be posted in an open and conspicuous public place on the premises of a massage business. The services shall be described in English.

2. An outcall massage business operator shall provide a list of services available and the costs of such services to a patron upon request.

H. Only Listed Services May be Provided. No owner or operator shall permit to be offered or performed, and no massage technician shall offer or perform, any service other than those posted on the list of available services, nor shall any owner, operator, or massage technician request or charge a fee for any service other than those listed on the list of available services.

I. Interior Doors Unlocked. No owner, operator, or massage technician shall lock any interior door or doors leading to a room used to provide massage when a massage is being performed. A patron may lock any door when alone in a room at any time.

J. Massage Log. An owner or operator must maintain a record of services provided for each treatment. The record of treatment shall include the name and address of the patron, the name of the massage technician, the name of the owner or operator present, the type of service provided, and the time the service began and ended. Such records shall be maintained on the premises of the massage business for at least two years and shall be immediately available for inspection and copying by City inspectors during business hours.

K. External Door Unlocked. The door to the main entrance of the premises of a massage business shall be unlocked during business hours unless the business is owned by one individual with one or no employees or independent contractors.

L. Professional Attire or Uniform Required. During business hours, each owner, operator, and massage technician must wear professional attire, or a uniform based on the custom and practice of the massage industry in California. The attire shall be made of nontransparent material and may not expose any specified anatomical areas, as defined in CVMC 5.36.030. Swimwear, lingerie or undergarments may not be used as a uniform or be displayed as part of a uniform.

M. No Residential, Sleeping Use. No massage business premises shall be used for residential or sleeping purposes. No owner or operator shall permit any person, including an owner, operator, or massage technician to reside on the business premises.

N. No Drugs or Alcohol. The sale, service, or consumption of an alcoholic beverage or any marijuana product at a massage business, or in connection with the performance of massage services, is prohibited.

O. No Audio or Video Recording. Audio and/or video recording of, or the monitoring of, the patron, the massage technician, or the massage therapist is prohibited, without the prior written consent of the patron.

P. No Adult-Oriented Merchandise. The display, use or possession of any adult-oriented merchandise, including but not limited to sex toys and condoms, is prohibited in any part of a massage business.

Q. Specified Anatomical Areas.

1. No owner or operator shall permit any person to massage or intentionally touch the specified anatomical areas, as defined in this chapter, of another person while performing massage at the permitted establishment, regardless of whether the touching is over or under the patron's clothing or other covering.

2. No owner, operator or massage technician shall enter any area that is used by a patron unless the patron's specified anatomical areas are covered.

R. No Sexual Activity. No owner, operator or massage technician shall engage in or permit sexual activity of any kind at the massage business.

S. Failure to Supervise. Any owner and operators shall be responsible for the conduct of their massage technicians. A violation of any provision of this chapter or California Business and Professions Code 4609, as from time to time may be amended, by a massage technician shall be prima facie evidence of the failure to supervise.

T. Application to Off-Premises Massage. Subsections (B), (D), (F), (H), (J) and (L) of this section do not apply to off-premises massage businesses.

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5.36.080 Minimum premises requirements.

No person shall engage in, carry on, perform massage services, or permit to be engaged in, conducted, carried on massage services at a massage business located in a fixed premises in the City's jurisdiction, unless all of the following minimum requirements are met:

A. Signage. A recognizable and legible sign complying with the City's sign regulations shall be posted at the main entrance.

B. Lighting. A minimum lighting consisting of at least one artificial light of 40 watts or lumens, or higher, shall be provided and shall be operating in each room or enclosure where massage services are being provided and in all areas accessible by clients.

C. Dressing Room, Locker, Secured Area to Deposit Valuables. Dressing rooms, lockers and a secured place for the protection of valuable shall be provided for patrons.

D. Lavatories. Lavatories with hot and cold running water, soap, and single service towels in a wall-mounted dispense shall be provided for patrons.

E. Washbasin for Employee and/or Patron Use. A minimum of one washbasin shall be provided for employee and/or patron use with hot and cold running water, soap, and single service towels in a wall-mounted dispenser.

F. Ventilation. Minimum ventilation shall be provided in accordance with the City's building codes.

G. Linens. Towels, sheets, and linens of all types shall be clean and freshly laundered. Towels, clothes and sheets shall not be used by more than one person unless the same has first been laundered. Heavy paper may be substituted for sheets; provided, that such paper shall not be used by more than one person and shall be discarded in a sanitary receptacle after each use.

H. Storage Cabinets. Towels, sheets and linens of all types shall be stored in cabinets.

I. Massage Table Pads. Pads used on massage tables shall be covered with durable washable plastic or other acceptable waterproof material.

J. Sterilized Instruments. Disinfecting agents and sterilizing equipment measures approved by the Health Department shall be provided and used for any instruments used to perform massage.

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5.36.090 Massage technician requirements.

- A. CAMTC Certificate Required. It is unlawful for any person to give, provide or administer to another person for any form of consideration a massage as defined in this chapter at a massage business in the City without a valid CAMTC certificate.
- B. Compliance Period for CAMTC Certificate. Within six months of the effective date of the ordinance codified in this section, massage technicians must have a valid CAMTC certificate.
- C. No Services Unless Listed. It is unlawful for a massage technician to provide any service not specifically listed on the massage establishment’s posted list of services.
- D. No Removal of Clothing. It is unlawful for a massage technician to remove any article of the massage business uniform or any other article of clothing while providing any massage service.
- E. Specified Anatomical Areas.
 - 1. It is unlawful for a massage technician to provide massage when any specified anatomical area of either the patron or the massage technician is exposed while performing massage at the permitted business.
 - 2. It is unlawful for a massage technician to touch the specified anatomical area of a patron while performing massage at the permitted establishment, regardless of whether the touching is over or under the patron’s clothing or other covering.
- F. Sexual Activity, Advertising, and Fraudulent Activity in Massage Services Prohibited. It is a violation of this chapter for a massage technician to engage in any unprofessional conduct as defined in California Business and Professions Code Section 4609, as that section from time to time may be amended.

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5.36.100 Advertising.

- A. All advertising to perform massage by any massage technician with the City’s jurisdiction shall include the name under which the massage technician is certified by the CAMTC and their CAMTC certificate number. This requirement shall apply to any and all types of advertising, including, but not limited to, business cards, written pamphlets, social media, and internet sites, including online bulletin boards.
- B. All advertising to perform massage at any massage business within the City’s jurisdiction shall include the name of the massage business and the City business license number. This requirement shall apply to any and all types of advertising, including but not limited to business cards, written pamphlets, social media, and internet sites, including online bulletin boards.
- C. No person, massage technician, owner or operator shall engage in sexually suggestive advertising, including sexually suggestive photographs and language, related to massage services.
- D. No person, massage technician, owner or operator shall place, publish, distribute, or cause to be placed, published or distributed, any advertising matter related to performing any service that is prohibited by this chapter or by any provision of state or federal law.

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5.36.110 Inspection.

- A. The investigating officials of the City, which includes but is not limited to police officers, code enforcement officers, and fire safety officers, shall have the right as otherwise provided by law to enter the premises of a massage business, including any room not being used for a massage, from time to time during regular business hours for the purpose of making a reasonable inspection to enforce compliance with this chapter.
- B. The investigating officials of the City shall, at least four times per each 12-month period, inspect each massage business in the City for the purpose of determining compliance with this chapter.

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5.36.120 Off-premises massage.

It is unlawful for any persons to engage in or operate an off-premises massage business without a massage business permit. _____ Initials

5.36.130 Violations – Penalties.

- A. It shall be unlawful for any person to violate any provision or fail to comply with the requirements of this chapter or any regulation adopted hereunder. Each day that a violation continues is deemed to be a new and separate offense.
- B. Any person violating any of the provisions or failing to comply with any of the requirements of this chapter or any regulation adopted hereunder shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than six months, or by both a fine and imprisonment. No proof of knowledge, intent, or other mental state is required to establish a violation. At the sole discretion of the City Prosecutor, any violation of this chapter may in the alternative be cited and prosecuted as an infraction.
- C. Any condition caused or allowed to exist in violation of any of the provisions of this chapter or any regulation adopted hereunder is a public nuisance. Such violation may be abated by the City, or by the City Attorney on behalf of the people of the state of California, as a nuisance in any manner provided for in this code, including summary abatement, or otherwise provided by law or equity, including a restraining order, injunction, or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City, or the City Attorney on behalf of the people of the state of California, may seek injunctive relief to enjoin violations of, or to compel compliance with, this chapter or seek any other relief or remedy available at law or equity, including the imposition of monetary civil penalties. All expenses incurred by the City in connection with any action to abate a public nuisance will be chargeable as authorized by law to the person(s) creating, causing, committing, or maintaining the public nuisance.
- D. A City employee may issue administrative citations or civil penalties in accordance with subsection (I) of this section for violation of any of the provisions of this chapter or any regulation adopted hereunder. When a violation occurs, it is not required that a warning or notice to cure must first be given before an administrative citation or civil penalty may be issued. Any report where the City’s Police Department has concluded that a violation of this chapter has occurred may be considered by the City for review, processing and issuance of an administrative citation or civil penalty.
- E. Each criminal citation or complaint, administrative citation, and civil penalty issued for a violation of any provision of this chapter may be issued, levied, or assessed against one or more of the following: the owner, the permittee, operator, massage technician, and any other person who caused, created, committed, or maintained the violation.
- F. A violation of any provision of this chapter by any owner, permittee, operator, massage technician or any other person shall constitute grounds for modification, denial, suspension or revocation of the massage business permit.
- G. The Chief of Police or designee may deny, suspend or revoke a massage business permit for any violation of this chapter. A change of ownership shall have no effect on the accumulation of violations against the massage business.

The City may issue an administrative citation or civil penalty for any violation of this chapter as follows:

- 1. First offense - not to exceed \$100.00;
- 2. Second offense within any continuous period of 12 consecutive months - not to exceed \$500.00;
- 3. Third and fourth offenses within any continuous period of 12 consecutive months - not to exceed \$1,000;

4. Fifth and subsequent offenses within any continuous period of 12 consecutive months - not to exceed \$3,000.

H. Whenever in this chapter any act or omission is made unlawful, it shall include causing, aiding, abetting, suffering, or concealing the fact of such act or omission.

I. The remedies specified in this section are cumulative and in addition to any other remedies available under state or local law for violation of this code.

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I have read and understood the information provided above. I acknowledge that violation(s) of any Chula Vista Municipal Code, state, and /or federal requirements, conditions or prohibitions by myself, in addition to agents, officers, partners, representatives, managers, or employees of the business, may result in the suspension or revocation of my Massage Business Permit.

Printed Name

Signature

Date