

ORDINANCE No. 2025-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA AMENDING CHAPTER 5.68 OF THE VISALIA MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS AND TO AMEND VISALIA MUNICIPAL CODE TITLE 17 (ZONING ORDINANCE), CHAPTER 17.04 DEFINITIONS AND CHAPTER 17.25 USES IN THE COMMERCIAL, MIXED USE, OFFICE, AND INDUSTRIAL ZONES, REVISING THE DEFINITION OF MASSAGE ESTABLISHMENTS AND DESIGNATING MASSAGE ESTABLISHMENTS FROM A PERMITTED USE TO A CONDITIONALLY ALLOWED USE IN THE REGIONAL COMMERCIAL (C-R) ZONE

WHEREAS, Ordinance No. 2025-03 is requesting to amend Chapter 5.68 of the Visalia Municipal Code relating to Massage Establishments while said Ordinance is also requesting adoption of Zoning Text Amendment No. 2025-02, a request to amend Visalia Municipal Code Title 17 (Zoning), Chapter 17.04 Definitions and Chapter 17.25 Uses in the Mixed Use, Office, and Industrial Zones, revising the definition of massage establishments and designating Massage Establishments from a permitted use to a conditionally allowed use in the Regional Commercial (C-R) zone. The specific amendments apply City-wide and are specified in Attachments "A", "B", and "C" of this Ordinance; and

WHEREAS, the City of Visalia has seen an increase in requests for businesses seeking to operate Massage Establishments, which resulted in the City Council adopting an urgency ordinance on April 23, 2024, under Government Code section 65858(b), which permits the adoption of interim zoning ordinances as an urgency measure upon findings that there is a current and immediate threat to public health, safety, or welfare; and

WHEREAS, pursuant to Government Code section 65858(b), the urgency ordinance voids after 45 days after its adoption unless extended by a subsequent 4/5 approval by the legislative body after a public hearing with notice of hearing published at least 10 days prior to the hearing along with posting the notice of hearing at least 10 days before the hearing in at least three public places; and

WHEREAS, on June 3, 2024, the City Council adopted the extension of the urgency ordinance which was set to expire on June 7, 2024, for an additional 22 months and fifteen days pursuant to Government Code section 65858(b), which continued the ability of the City to apply the interim regulatory requirements on massage establishments seeking to operate in the City of Visalia; and

WHEREAS, on May 19, 2025, the City Council received a Work Session staff report and directed staff to implement changes to the massage ordinance; and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on July 14, 2025; and

WHEREAS, the Planning Commission of the City of Visalia considered the Zoning Text Amendment in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia and on the evidence contained in the staff report and testimony presented at the public hearing, and recommended approval of said Zoning Text Amendment to the City Council; and

WHEREAS, the City Council of the City of Visalia, after duly published notice, held a public hearing before said City Council regarding Ordinance No. 2025-03 and Zoning Text Amendment No. 2024-03 on July 21, 2025, and considered said Ordinance and Zoning Text Amendment in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia on the premise that the Planning Commission of the City of Visalia had previously reviewed and recommended approval of an Ordinance through Zoning Text Amendment No. 2025-02; and

WHEREAS, the City Council of the City of Visalia finds that the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines, Code of Regulations Section 15061(b)(3) (common sense exemption), as the proposed Ordinance and zoning text amendment will not in and of themselves have an effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the project is exempt from further environmental review pursuant to CEQA Guidelines, Code of Regulations Section 15061(b)(3).

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby makes the following specific findings regarding Zoning Text Amendment No. 2025-02:

1. That the Zoning Text Amendment is needed to achieve the objectives of the Zoning Ordinance (Visalia Municipal Code Title 17) that are prescribed in Section 17.02.020.
2. That the proposed Zoning Text Amendment is consistent with the intent of the General Plan, and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare of people in the City, or materially injurious to properties or improvements in the City.
3. The Zoning Text Amendment update the Zone Use Matrix in Section 17.25.030 based on City Council's direction regarding massage establishments provided at May 19, 2025, City Council Work Session.
4. That the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption).

NOW, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA, has identified the need to amend the existing provisions to the Visalia Municipal Code to update the regulations of Massage Establishments that govern how massage establishments operate and conduct business, these regulations are contained in Chapter 5.68 of the Visalia Municipal Code, along with portions of sections 17.04, and 17.25.030, and these Visalia Municipal Codes are hereby added and/or amended as contained in Attachments "A", "B", and "C" of this Ordinance.

Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia 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 sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Effective Date. This Ordinance shall take effect thirty days after its adoption.

Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED: August 4, 2025 BRETT TAYLOR, MAYOR

ATTEST:

LESLIE CAVIGLIA, CITY CLERK

APPROVED BY CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Leslie Caviglia, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 2025-03 passed and adopted by the Council of the City of Visalia at a regular meeting held on August 4, 2025 and certify a summary of this ordinance will be published in the Visalia Times Delta.

Dated: August 4, 2025

LESLIE CAVIGLIA, CITY CLERK

By Reyna Rivera, Chief Deputy City Clerk

Ordinance No. 2025-03

ATTACHMENT "A"

MASSAGE ESTABLISHMENTS

- 5.68.010 *Declaration of purpose and intent.*
- 5.68.020 *Definitions.*
- 5.68.030 *Administration.*
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- 5.68.090 *Display of permit.*
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- 5.68.160 *Appeal of permit denial, suspension, or revocation*

5.68.010 Declaration of purpose and intent.

A. *In enacting this chapter, the City Council recognizes that massage therapy is a professional pursuit 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 local 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 activities in violation of state law, all in the interests of the public health, safety, and welfare, by providing certain operational standards for such businesses, and by requiring certain minimum qualifications for the operators and practitioners of such businesses. It is the further intent of this chapter to*

streamline local massage therapy permitting procedures, while still facilitating and advancing the ethical practice of massage therapy, by relying upon the uniform statewide regulations enacted by the Legislature in 2008 as Business and Professions Code Sections 4600 et seq., known as the Massage Therapy Act, as subsequently amended, and by restricting the commercial practice of massage in the city to those persons duly certified to practice by the California Massage Therapy Council formed pursuant to those statutes.

B. This chapter is not intended to be exclusive, and compliance will not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal services businesses including, without limitation, all zoning applications; business license regulations; building, fire, electrical, and plumbing codes; and health and safety code laws and regulations applicable to professional or personal services businesses.

C. This chapter establishes a local regulatory system that allows only state certified massage professionals to operate within the city. This chapter is not intended to regulate massages that are not part of a business occupation. This chapter is also intended to coordinate the timing of the city's business license renewals with the state massage certification process.

5.68.020 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases not defined by this chapter have the meaning set forth elsewhere in the Visalia Municipal Code, the California Business and Professions Code, or the California Government Code.

"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.

"Business tax certificate" shall mean the physical documentation verifying payment of tax issued by the collector, indicating the tax period covered. "Business License," "City Business License," "City of Visalia Business License," and "Business Tax Permit" are used interchangeably within the City of Visalia Municipal Code to mean "Business Tax Certificate" when used in reference to this title.

"California Massage Therapy Council (CAMTC)" means the California Massage Therapy Council created pursuant to California Business and Professions Code Section 4600 et seq.

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

"Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

"City" means the city of Visalia.

"City manager" means the person appointed as or serving as the city manager for the City of Visalia.

"Director of finance" and/or "director" means any director of the finance department of the city, or his/her duly authorized deputies, or assistants who may be charged with the collection of business taxes and the issuance of business tax certificates.

"Inspector" means the person or persons designated by the city to conduct any inspections required or

permitted under this chapter.

"Massage," "massage therapy," and/or "bodywork" for the purpose of this chapter means the skillful application of touch, any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations. (Exclusions to this chapter are also described in Section 5.68.110. This chapter is not intended to regulate massages that are not part of a business occupation.)

"Massage establishment" means any business that offers massage therapy, baths or health treatments including, but not limited to, aromatherapy, vapor, shower, electric tub, sponge, hot towels, mineral fermentation, sauna, steam or any other type of bath, involving massages or baths in exchange for compensation. Massage businesses with an approved home occupation permit per VMC section 17.32.030 and businesses that provide outcall massage services are also considered to be massage establishments and must also comply with the approved home occupation permit. For purposes of this chapter, the term "massage establishment" may be applied to include establishments which offer or advertise themselves as providing "relaxation" or "tanning" where the essential nature of the interaction between the employee and the customer involves "massage" as defined herein. The terms, names or phrases listed on business license or fictitious name application forms are not necessarily conclusive as to the nature of the business.

"Operator" or "massage establishment operator" means any person who is an owner or manager of a massage establishment.

"Out-call massage service" means any business that provides, refers or otherwise facilitates massage for any consideration at a nonfixed location.

"Owner" or "massage establishment owner" means any of the following persons.

- A. The sole proprietor of a sole proprietorship operating a massage establishment.
- B. Any general partner of a general or limited partnership that owns a massage establishment.
- C. Any person who has a five (5) percent or greater ownership interest in a corporation that owns a massage establishment.
- D. Any person who is a member of a limited liability company that owns a massage establishment.
- E. All owners of any other type of business association that owns a massage establishment.

"Patron" means an individual on the premises of a massage establishment for the purpose of receiving massage therapy.

"Person" means and includes person(s), firms, corporations, partnerships, associations, joint venture, liability company or other forms of business organization or group.

"Police chief" means the police chief of the city of Visalia or the authorized representatives thereof.

"Reception and waiting area" means an area immediately inside the main entry door of the massage establishment dedicated to the reception and waiting of patrons or visitors of the massage establishment and which is not a massage therapy room or otherwise used for the provision of massage therapy services.

"Recognized school" means any school or institution of learning that is recognized as an approved school

pursuant to Business and Professions Code Division 2, Chapter 10.5, as currently drafted or as may be amended.

"Specified anatomical areas" means and includes any of the following human anatomical areas: genitals, pubic regions, anuses or female breasts below a point immediately above the top of the areola.

"Specified sexual activities" means and includes all of the following:

- A. Fondling or other erotic touching of specified anatomical areas;*
- B. Sex acts including, without limitation, intercourse, oral copulation, or sodomy;*
- C. Masturbation; or*
- D. Excretory functions as part of or in connection with any specified sexual activity listed in this definition.*

"Sole proprietorship" means a massage establishment where the owner owns one hundred percent of the business and has one or no other employees or independent contractors.

"Visitor" means any individual not retained or employed by the massage establishment and not receiving or waiting to receive massage therapy service, but excludes law enforcement personnel or governmental officials performing governmental business.

5.68.030 Administration

The city manager or city manager's designee is authorized to administer this chapter and to promulgate administrative policies and procedures required to implement the regulations set forth in this chapter.

5.68.032 Business tax certificate required.

The requirements of this chapter are in addition to the requirements imposed pursuant to Chapter 5.04 of this code.

5.68.034 Other permits and authorizations required.

The requirements of this chapter are in addition to any permits or authorizations that may be required under other applicable laws including but not limited to the city's building, fire, zoning, and health regulations.

5.68.040 Exceptions.

A. This chapter does not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, podiatrists, physical therapists, nurses, acupuncturists or any other person licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code when engaging in such practice within the scope of his or her license along with activities by trainees or assistants that are working under the direction of licensed professionals.

2. Barbers, beauticians, cosmetologists, and estheticians with respect to facial massage and scalp massage, who are duly permitted pursuant to Business and Professions Code § 7301, et seq., in accordance with the limitations of their permits.

3. *Persons employed or working at a licensed athletic facility or trainers of any amateur, semi-professional, or professional athlete or athletic team, so long as such persons do not practice massage therapy as their primary occupation at any location.*

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

5. *Businesses where a massage is performed while the person sits in a chair, such as head and neck massage, foot massage, or as part of a manicure or pedicure, and performed in public view or in an open common room*

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

5.68.050 Certifications required.

A. *Massage establishment. It is unlawful for any person to own, operate or maintain a massage establishment unless all massage technicians employed by the massage establishment hold a current, valid certification from the CAMTC as a massage practitioner or massage therapist or qualify under the limited exceptions described in this chapter.*

B. *CAMTC-certified massage professional. It is unlawful for any person to engage in, or carry on, the business or activities of a massage professional technician or otherwise practice massage therapy for compensation within the city without a certification from the CAMTC as a massage professional unless they qualify under the limited exceptions described in this chapter.*

C. *Out-call massage service. It is unlawful for any person to own, operate, or maintain, an off-premise massage service in the city unless all massage technicians employed by the off-premises massage service hold a current, valid certification from the CAMTC as a certified massage practitioner or certified massage therapist or qualify under the limited exceptions described in this chapter.*

D. *CAMTC certification exception. The city recognizes that some massage professionals currently practicing in Visalia may not meet the current requirements set forth by the CAMTC due to changes in educational or other requirements particularly changes in requirements concerning hours of schooling although the person has been in practice for a significant period. The city will therefore allow such persons that were working within Visalia prior to the requirements for CAMTC certification being put in place by the city under this "grandfather exception" without certification from the CAMTC if the requirements stated below are met.*

The person seeking this exemption must show to the satisfaction of the city police department that he or she worked as a massage therapist or massage practitioner in the city prior to July 1, 2012, which is the effective date of this chapter. The person must also provide evidence to the city that he or she has certification or proof of training in the field from a school or another entity comparable to the CAMTC and has been working as a massage therapist or massage practitioner for a period of at least five (5) years. Finally, the person must provide evidence that they attempted to obtain certification from the CAMTC but were denied and provide the reasons for the denial to show despite their existing training and experience they were not able to qualify for certification from CAMTC.

Persons that are granted an exemption from the CAMTC certification requirement by the city will still be required to meet all other terms of this chapter including but not limited to the background check required of massage establishment owners that are not certified by the CAMTC.

5.68.060 Massage establishment owner background check required.

A. Any person, association, partnership, limited liability company, corporation, or similar business entity desiring to operate a massage establishment that is not a certified massage practitioner or certified massage therapist, (meaning certified by the CAMTC) must make an application to the chief of police for an investigation of the applicant's background and history. A fee to recover costs of the background check must accompany the submission of each application.

1. Each applicant for a background check shall complete the forms required by the Visalia Police Department to conduct the investigation. The forms shall require submission of fingerprints and additional information as may be required by the chief of police in order to verify the information to be included in the application. The application shall be accompanied by the appropriate application fee. The application shall not be deemed to be accepted until the fee is paid. The applicant, by submitting the background investigation form, is consenting to the background investigation conducted by the Visalia Police Department. If the applicant is a business entity, such as a partnership, limited liability company, or corporation, the name of the business entity must be set forth exactly as shown in the articles of incorporation, articles of organization, or similar type of charter document, together with the state and date of formation and names and residence addresses of each of its current officers and directors, and each person, such as a stockholder, member, or limited liability partner, holding an ownership interest of five percent (5%) or more in the business entity. All partners, limited or general, and all persons holding an ownership interest of five percent (5%) or more in the business entity must complete a background application, unless they are certified by the CAMTC. The applicant corporation or partnership must designate one (1) of its officers or general partners to act as its responsible managing officer. Such person must complete and sign all application forms required of any individual applicant under this chapter, but only one (1) application fee will be charged. No person(s) owning less than five percent (5%) of an ownership interest in a corporation are required to complete a background investigation.

2. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be operated, and a copy of the lease or rental agreement. If the applicant is not the legal owner of the property, a notarized acknowledgment from the owner of the property that a massage establishment will be located on his or her property is required for each massage establishment permit location.

3. The full true names and other names used, the present addresses and telephone numbers, driver's license numbers, and Social Security numbers, and state certificates from the CAMTC or transitional licenses for all massage technicians who will be working as employees or independent contractors at each massage establishment permit location. The applicant must provide the chief of police with any changes in the massage technicians that work at the massage establishment during the permit period within ten (10) working days of each change.

4. The chief of police may require the applicant to furnish fingerprints when needed for the purpose of verifying identification.

5. Such other identification and information as may be required by the chief of police in order to verify the information to be included in the application.

B. The city is allowed a reasonable time, not to exceed sixty (60) days, in which to investigate the information on the application. During the investigation of the background information, a city representative including, without limitation, a member of the police department, fire department, building and safety division, planning division, or any authorized representative thereof, may inspect, with or without notice during regular business hours, the proposed place of business to determine whether it conforms to the requirements of this chapter. Upon completion of the inspection, the city representative must inform the chief of police in writing of the findings of the inspection. Background clearance will be issued, within sixty (60) days of receipt of the application, to any applicant who has furnished all of the information required by this section in the application for such license, provided all of the following apply:

1. The applicant has not made a materially false statement in the application and that all massage technicians who will be working as employees or independent contractors at each massage establishment permit location possesses certification from the CAMTC as a massage practitioner or massage therapist;

2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, or shareholder of the corporation's stock required to complete a background investigation, has not been convicted in a court of competent jurisdiction of any of the following offenses: Penal Code §§ 207; 236.1; 243.4; 261; 266a through 266j; 267; 314 to 316; 318; or 647(a, b, d, j); 653.23 any offense requiring registration under Penal Code § 290 or Health and Safety Code § 11590; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, or giving away of a controlled substance specified in Health and Safety Code §§ 11054 to 11058, as amended; or any offense in another state which, if committed in California, would have been punishable as one (1) or more of the heretofore mentioned offenses; or any offense involving the use of force or violence upon the person of another; or any offense involving theft, embezzlement or moral turpitude;

3. The applicant, if an individual, is at least eighteen (18) years of age;

4. The applicant has not had a massage technician, massage establishment, escort service, nude entertainment, nude photo studio or similar type of license or permit suspended unless the applicant can show a material change in circumstances or that mitigating circumstances exist since the revocation or suspension.

5.68.070 Permit Application

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

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

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

3. The form of business under which the applicant will be conducting the massage establishment, i.e., corporation, general or limited partnership, limited liability company, or other form. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of its officers, directors, and each shareholder holding more than five (5) percent of the stock of the corporation. If the applicant is a general or limited partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If

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

4. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be operated, and a copy of the lease or rental agreement. If the applicant is not the legal owner of the property, a notarized acknowledgment from the owner of the property that a massage establishment will be located on his or her property is required for each massage establishment permit location

5. If the massage establishment will be located on a property in a commercial condominium or other common interest development, the applicant shall submit a notarized statement from the condominium owner's association acknowledging that the association has been advised that a massage establishment will be operated by the applicant and that such use of the property is allowed by the property's covenants, codes, and restrictions. An application may be denied if the property owner does not allow such a business to be operated at the proposed location.

6. A description of the proposed massage establishment, including the type of treatments to be administered.

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

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

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

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

11. Whether any certificate, license or permit has ever been issued to the applicant by any jurisdiction under the provisions of any ordinance or statute governing massage or somatic practice, and as to any such certificate, license or permit, the name and address of the issuing authority, the effective dates of such certificate, license or permit, whether such certificate, license or permit was ever suspended, revoked, withdrawn, or denied; by any governmental authority; or the applicant has had any massage therapist or massage practitioner permit, license, or certification denied, revoked or suspended by the CAMTC, provide copies of any documentary materials relating to such suspension, revocation, withdrawal, or denial.

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

13. A statement that within the last five (5) years the applicant has not failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor

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

5.68.080 Permit Issuance

A. The director shall issue the business tax certificate for the massage establishment, also referred to as the massage establishment permit after the Planning and Community Preservation Department, Planning Division has determined that the applicant meets applicable municipal code requirements including but not limited to the Zoning Ordinance, this chapter, and no grounds for denial exist.

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

D. Denial of Permit. The director or designee may deny an application for a massage establishment permit or suspend an existing permit on any of the following grounds:

1. The massage establishment does not comply with any applicable law, including, but not limited to the city's building, fire, zoning, and health regulations.

2. It has been determined that the applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for a massage establishment permit.

3. Any owner of the massage establishment has been convicted in a court of competent jurisdiction of any offense that relates directly to the operation of a massage establishment whether as a massage establishment owner or operator or as a person practicing massage for compensation, or as an employee of either; or has at any time been convicted in a court of competent jurisdiction of any felony the commission of which occurred on the premises of a massage establishment.

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

5. Any owner of the massage establishment has engaged in or been convicted in a court of competent jurisdiction of any violation previously listed in Section 5.58.060(B) of this chapter, or has had a permit or license to practice massage for compensation or to own and/or operate a massage establishment revoked or denied in any jurisdiction.

6. Any owner of the massage establishment currently owns or operates a massage establishment in the city of Visalia that is not in good standing due to the existence of uncorrected violations or unpaid fines or fees.

5.68.090 Display of Certificates

Any owner of a massage establishment or off-premise massage service must display the CAMTC certificates for all massage technicians prominently in a conspicuous place, capable of being viewed by customers or city representatives, at every location where massage is performed or conducted.

For off-premise massage services, massage workers must also carry a copy of their CAMTC certificate and display it to customers upon request.

Any persons operating under the limited exception from CAMTC certification described in Section 5.68.050 must display the statement from the city documenting their exemption prominently in a conspicuous place capable of being viewed by customers or city representatives, or carry it with them for off-premise massage services.

5.68.100 Amendments to permit

A. Whenever the information provided in the application for a certified massage establishment on file with the city changes, the operator shall file an application to amend the permit to reflect such change. An application to amend a massage establishment permit shall be made by applying on a form provided by the director. The application shall be accompanied by the fee established by the city's fee schedule.

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

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

D. A denial of an application to amend a massage establishment permit may be appealed in the same manner as an initial application as set forth in section 5.68.160 of this chapter and in chapter 1.13 of the Visalia Municipal Code.

5.68.110 Requirements for all massage establishment facilities and operations

A. No Massage Establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area with any material that obstructs, blurs, or unreasonably darkens the view into the premises.

B. Minimum lighting consisting of at least one artificial light that sufficiently illuminates items in the room, making them distinguishable, shall be required in all areas where massage services are provided.

C. Living Quarters Prohibited. No person or persons shall be allowed to reside, dwell, occupy or live inside a Massage Establishment at any time. Beds, floor mattresses, dressers, nightstands, pullout couches or other furniture that converts into a bed shall not be permitted on the premises.

D. No person shall enter, be or remain in any part of a Massage Establishment while in possession of an open container of alcohol, or consuming or using any alcoholic beverages or controlled drugs except pursuant to a prescription for such drugs. The Owner, Operator, or responsible managing Employee, shall not permit any such person, or any person who is clearly intoxicated, to enter or remain upon the premises.

E. No Massage Establishment shall operate a school of massage or use the same facilities as that of a school of massage.

5.68.120 Prohibited conduct

A. It is unlawful for any massage technician or any other employee working in a massage establishment or for an out-call massage service, or customers, patrons, or guests of the establishment or service, to engage in any specified sexual activities upon the premises of the massage establishment or the off-premises massage location.

B. It is unlawful for any massage technician or other employee of a massage establishment to expose specified anatomical areas in the presence of any patron, customer, or guest.

C. In the course of administering the massage, it is unlawful for any massage technician or other massage establishment employee to make intentional physical contact with the specified anatomical areas of any customer, patron or guest.

5.68.130 Massage establishment inspections

The operator and/ or on duty responsible managing employee shall consent to the inspection of the massage establishment by the City's Building and Safety Division, Code Enforcement Division, Fire Department and Police Department and the County Health Department for the purpose of determining that the provisions of this ordinance or other applicable laws or regulations are met. The City's Building and Safety Division, Code Enforcement Division, Fire Department and Police Department and the County Health Department may, from time to time, make unannounced inspections of each massage establishment for the purpose of determining that the provisions of this chapter, State law or other applicable laws or regulations are met.

5.68.140 Suspension or revocation of permit

A. All massage establishment operators shall be deemed to know and understand the requirements and prohibitions of this chapter. A determination to suspend or revoke a permit issued under this chapter may be made by the inspector following an inspection. Suspensions may be issued until a specific violation has been corrected, which requires an inspection by the City for confirmation of correction. If a suspension is issued, then no massage business may be conducted by the permit holder at the specified location, or by the specified license holder. Any massage establishment permit issued pursuant to this chapter may be suspended or revoked if any of the following have occurred on even a single occasion:

1. The permittee or any person employed or retained by the massage establishment has violated any provision of this chapter, including but not limited to failing to obtain or renew their permit to operate as a massage establishment.
2. That the applicant practiced fraud or deceit in obtaining an approval under this chapter or of California Business and Professions Code Sections 4600 et seq.
3. Any disciplinary action taken by CAMTC shall be considered in determining grounds for revocation.
4. The permittee or any person employed or retained by the massage establishment has been convicted in a court of competent jurisdiction of having violated, or has engaged in conduct constituting a violation of any penal code listed in 5.68.060 B, or conspiracy or attempt to commit any such offense, or any offense in a jurisdiction outside of the State of California that is the equivalent of any of the aforesaid offenses.
5. The permittee or any person employed or retained by the massage establishment is required to register under Section 290 of the California Penal Code.
6. The permittee has been subject to a permanent injunction against the conducting or maintaining of

a nuisance pursuant to this code, or Sections 11225 through 11235 of the California Penal Code, or any similar provision of law in any jurisdiction outside the State of California.

7. The permittee or any person employed or retained by the massage establishment has engaged in fraud or misrepresentation or has knowingly made a misstatement of material fact while working in or for the massage establishment or practiced fraud or deceit in obtaining an approval under this chapter.

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

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

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

11. There have been one or more acts prohibited under California Penal Code listed in 5.68.060 B taking place on the premises of the massage establishment, whether or not any criminal prosecution has been pursued or conviction obtained for such acts, and whether or not they occurred with or without the actual knowledge of the permittee.

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

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

14. The permittee or any person employed or retained by the massage establishment has failed to keep the facilities and operations of the massage establishment in compliance with this chapter, or any applicable law including but not limited to the city's building, fire, zoning, and health regulations, and that the owner or operator has failed to promptly remedy any deficiency of which they have been notified. For purposes of this subsection, "notice" means notice given personally, or by leaving notice at the massage establishment premises, or by first class mail, postage prepaid, to the address designated by the massage technician or establishment in accordance with this chapter.

15. That the business tax and permit approval was issued in error;

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

17. Upon a determination on the grounds to suspend or revoke an approval under this chapter, a notice of suspension or revocation is to be mailed by first class, postage prepaid mail, to the address designated by the massage technician or establishment pursuant to this chapter or alternatively may be delivered in person to the massage technician or establishment licensed pursuant to this chapter.

5.68.150 Enforcement and penalties

A. Any person violating any provision of this chapter is liable in a civil action brought by the city attorney for an amount up to \$500 per violation. Such person is also liable for reasonable attorneys' fees and costs incurred by the city attorney in any civil proceeding filed to enforce this chapter. Each day that a violation continues may be considered a new and subsequent offense.

B. Alternatively the city may choose to enforce violations through the administrative code enforcement process described in Chapter 1.13 of the Visalia Municipal Code, with violations being punishable with a \$100 fine for the first violation, a \$200 fine for the second violation, and a \$500 fine for the third and subsequent violations. Each day that a violation continues may be considered a new and subsequent offense.

C. Enforcing this chapter through civil action may be filed as an alternative to criminal enforcement. Civil enforcement does not require the violation to be knowing or willful.

D. The city attorney may settle any civil enforcement before or after the filing of a civil action by imposing a civil penalty in an amount not exceeding the potential civil liability, including attorneys' fees, set forth in this section. If such civil penalty is paid in full, the city attorney can agree not to file civil or criminal actions or, if action has already been filed, may dismiss such action. Imposition of all civil penalties is public record.

5.68.160 Appeal of denial, suspension, or revocation

After denial of an application for a massage establishment regulatory permit (the term permit includes the "grandfather exception" to CAMTC certification described in this chapter, or after denial of renewal of a permit, or suspension or revocation of a permit, the applicant or person to whom the permit was granted may appeal the decision to the city manager, or designee, by filing a written notice with the City of Visalia Planning and Community Preservations Department within ten (10) business days from the date of the notice of denial, suspension, or revocation. The city manager or designee shall hold a hearing on the appeal. The City Manager may designate the administrative hearing officer appointed to review appeals of City of Visalia administrative code enforcement matters under Chapter 1.13 of the Visalia Municipal Code as the hearing officer for appeals of massage establishment permit denials, suspensions, or revocations, and this appeal shall be heard under the rules for administrative appeals in Chapter 1.13. The decision of the city manager, or designee, following the hearing shall be final and conclusive. There is no appeal to the City Council. If the denial, suspension or revocation is affirmed on review the applicant or permittee may seek judicial review of such administrative action pursuant to California Code of Civil Procedure § 1094.5. The time for filing such action is governed by California Code of Civil Procedure § 1094.6.

Ordinance No. 2025-03

ATTACHMENT "B"

Section 1. Visalia Municipal Code Title 17 (Zoning Ordinance) is hereby amended, to read as follows, as specified by as specified by underline & italics for additions and ~~strikeout~~ for deletions:

Chapter 17.04 Definitions

~~"Massage Therapy Establishment" means an establishment offering massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body by a Certified Massage Therapist.~~

"Massage Establishment" means any business that offers massage therapy, baths or health treatments including, but not limited to, aromatherapy, vapor, shower, electric tub, sponge, hot towels, mineral fermentation, sauna, steam or any other type of bath, involving massages or baths in exchange for compensation. Massage businesses with an approved home occupation permit per Visalia Municipal Code Section 17.32.030 and businesses that provide outcall massage services are also considered to be massage establishments and must also comply with the approved home occupation permit.

Ordinance No. 2025-03

ATTACHMENT “C”

Section 1. Visalia Municipal Code Title 17 (Zoning Ordinance) is hereby amended, to read as follows, as specified by as specified by underline & italics for additions and ~~strikeout~~ for deletions:

Chapter 17.25.030 Uses in the Commercial, Mixed Use, Office and Industrial Zones.

USE	Commercial and Mixed Use Zones					Office Zones			Industrial Zones		Special Use Standards (See identified Chapter or Section)
	C-N	C-R	C-S	C-MU	D-MU	O-PA	O-C	BRP	I-L	I	
Massage Therapist <u>Establishment</u>	C	P <u>C</u>		C	C	C	C				<u>Chapter 5.68</u>