



# CITY COUNCIL STAFF REPORT



**December 20, 2022**

## **ITEM TITLE**

Massage Regulation: Consideration of Repealing Chula Vista Municipal Code Chapter 5.36, Massage Parlors and Holistic Health Practitioners, and Replacing it with Chapter 5.36, Massage Regulation

**Report Number:** 22-0322

**Location:** No specific geographic location

**Department:** Police

**Environmental Notice:** The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

## **Recommended Action**

Adopt an ordinance repealing Chula Vista Municipal Code Chapter 5.36, Massage Parlors and Holistic Health Practitioners, and replace it with the proposed new version of Chapter 5.36, Massage Regulation **(First Reading)**

## **SUMMARY**

The Police Department is requesting approval of an updated ordinance that requires state certification of massage technicians.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable.

## DISCUSSION

The Police Department recognizes that massage therapy offers valuable health and therapeutic benefits. The Department further recognizes that unless properly regulated, the practice of massage therapy and the operation of massage businesses may be susceptible to unlawful activity, such as human trafficking, prostitution, and money laundering.

The Police Department is recommending that Chapter 5.36 of Chula Vista Municipal Code, Massage Parlors and Holistic Health Practitioner Businesses, be repealed and replaced to reflect updates in state law and to require that those who provide massage for compensation in Chula Vista be certified by the California Massage Therapy Council (CAMTC). Certification promotes professional massage and discourages the abuse of massage as a front for unlawful activities.

The CAMTC was established in the Massage Therapy Act (Act). (Cal. Business and Professions Code section 4600 et seq.) The CAMTC is a non-profit organization that establishes professional standards, approves massage school programs and provides a voluntary certification process for massage professionals. CAMTC certification is the only credential for massage professionals recognized by state law. The CAMTC certificate, valid for two years, allows a massage professional to work anywhere in California and is often required by employers. Although a CAMTC certificate is voluntary and is not required by state law in order to practice massage in California, many cities and counties require CAMTC certification. For certification, a person must be 18 years old, complete 500 hours of study from an approved school and pass a backgrounds check, which includes fingerprinting for criminal convictions. The CAMTC may investigate consumer complaints against certified massage professionals and take action, such as suspending or revoking a certificate, when appropriate. The CAMTC may also suspend or revoke a certificate based on unlawful activity such as prostitution.

Although CAMTC certifies massage therapists, it does not regulate the business of providing massage. The Act expressly authorizes cities to impose and enforce reasonable and necessary fees and regulations on massage businesses. (Cal. Bus. & Prof. 4603.1). Additionally, state law authorizes cities to regulate massage businesses, with some limitations (Cal. Government Code section 51030 et seq.), to license massage businesses for revenue purposes (Cal. Government Code section 37101), and to regulate for protection of the public's health, safety and welfare as part of a city's police power. (Section 7 of Article XI of the California Constitution.)

The Police Department administers the City's massage regulations, which requires massage businesses to have a department-issued permit. There are currently 23 massage businesses permitted by the Police Department. Through quarterly inspections and proactive investigation, the Department has enforced prostitution and drug laws and encountered evidence of human trafficking, such as employees running out of the building when officers identified themselves and individuals living at the massage business.

**CAMTC Review:** At the Department's request, the CAMTC reviewed and approved the proposed ordinance.

**Community Outreach:** The Department provided the proposed ordinance to the City's 23 massage business permittees and invited comment. As of the submittal of this staff report, the Department has not received any feedback from a business.

## **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

## **CURRENT-YEAR FISCAL IMPACT**

There is no current-year fiscal impact to approving the Police Department's request to consideration of Ordinance of the City of Chula Vista repealing Chapter 5.36, Massage Parlors and Holistic Health Practitioners, and replacing it with Chapter 5.36, Massage Regulation.

## **ONGOING FISCAL IMPACT**

There is no ongoing fiscal impact.

## **ATTACHMENTS**

Attachment 1: Proposed new Municipal Code Chapter 5.36, Massage Regulation

Attachment 2: Redline-strikeout version of the proposed repealed Chapter 5.36, Massage Regulation

Attachment 3: Current Municipal Code to be repealed and replaced

Attachment 4: Letter sent to each massage or spa business in Chula Vista

*Staff Contact: Captain Miriam Foxx, Police Department*