

ORDINANCE NO. 08-26

**AN URGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF ORANGE
ESTABLISHING A TEMPORARY MORATORIUM
ON MASSAGE ESTABLISHMENTS PENDING
REVIEW AND UPDATE TO THE CITY'S
MUNICIPAL CODE AND ZONING CODE**

WHEREAS, California Government Code Section 65858 authorizes the City Council to adopt an urgency ordinance imposing a temporary moratorium where there is a current and immediate threat to the public health, safety, or welfare; and

WHEREAS, California Constitution, Article XI, Section 7, authorizes cities to make and enforce within its limits all local, police, sanitary, and other ordinances, and regulations not in conflict with general laws; and

WHEREAS, the City protects the health, safety, and welfare of the community through numerous avenues, including by establishing and enforcing zoning, licensing and health and safety regulations on specified commercial activities; and

WHEREAS, in 2009, California Senate Bill 731 created the California Massage Therapy Council ("CAMTC") which limited cities' ability to regulate massage establishments; and

WHEREAS, in 2015, California Assembly Bill 1147 restored the ability of cities to regulate massage establishments through land use and local licensing and health and safety requirements, subject to certain regulations; and

WHEREAS, the City is authorized by State law, including, without limitation, California Government Code Section 51030 et seq. and California Business & Professions Code Section 16000 et seq. to regulate massage establishments; and

WHEREAS, such regulations include Chapter 5.56 of the Orange Municipal Code ("OMC"), which contains the licensing requirements and operational standards for massage establishments in the City; and

WHEREAS, in addition to the requirements of OMC Chapter 5.56, massage establishments are permitted only where massage services are lawfully operated as a permitted use or as an accessory use that is clearly incidental and integrated with the primary business, and where revenue derived from massage services does not exceed twenty-five percent (25%) of the business's gross income pursuant to OMC Section 17.13.040.PP; and

WHEREAS, despite the above regulatory framework, in recent years, the City has experienced issues related to illicit sexual activity and suspected prostitution at businesses offering massage services; and

WHEREAS, in recent years, substantial evidence obtained through more than twenty joint criminal investigations conducted by the Community Development Department's Code Enforcement Division and the Orange Police Department has revealed recurring health, safety, and code violations, including, but not limited to, unlicensed operations, non-state-certified massage therapists, unpermitted construction of rooms and shower facilities, unsanitary and poorly maintained facilities, unlawful alcohol service, illicit advertising of unprofessional conduct, and suspected unlawful sexual activity; and

WHEREAS, earlier this year, the Orange Police Department's Special Weapons and Tactics Team executed a court-authorized search warrant at a massage establishment with assistance from the City's Code Enforcement Division. The investigation documented multiple violations, including the absence of state-certified massage therapists, evidence that massage services were being performed at the time of inspection, unlawful alcohol service, and other conditions inconsistent with lawful operation, thereby demonstrating the ongoing and immediate nature of these enforcement concerns; and

WHEREAS, the above illegal activity resulted in significant public expense including code enforcement inspections, law enforcement surveillance operations, and administrative and legal review and enforcement actions. These illegal activities diverted resources from other pressing City needs; and

WHEREAS, massage establishments that offer illicit sexual activity pose an immediate and significant threat to the health, safety and welfare of the community. Among other things, these impacts include the potential for: (1) injury and abuse to patrons being solicited for unlawful services, and (2) increased opportunities for prostitution activity and human trafficking of workers by virtue of the secretive nature associated with offering unauthorized and undisclosed services; and

WHEREAS, pursuant to California Government Code Sections 36937 and 65858, the City Council may adopt an interim urgency ordinance to protect the public safety, health, and welfare. Section 65858 specifically allows a temporary moratorium to prohibit any uses that may conflict with a contemplated zoning proposal that the City wishes to study; and

WHEREAS, the City Council finds that the development and establishment of new massage establishments, or the expansion or intensification of existing massage establishments, may have adverse impacts on the environment, traffic, aesthetics, and visual quality of surrounding properties and on the economic vitality within the City, and such impacts constitute and pose a current and immediate threat to the public health, safety, or welfare; and

WHEREAS, City staff requires time to further gather data about the adverse impacts of massage establishments that provide illicit services, and to research, study, and consider ways to amend the City's regulatory process and the Orange Municipal and Zoning Codes to protect the public health and safety and reduce illegal activities occurring at these businesses; and

WHEREAS, all legal prerequisites to the adoption of this urgency ordinance have occurred.

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

SECTION I:

CEQA. The City Council finds that this ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, section 15061(b)(3) that this interim urgency ordinance is nonetheless exempt from the requirements of CEQA. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION II:

Incorporation. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION III:

Urgency Findings. This Ordinance is adopted under the provisions of California Government Code Sections 36937 and 65858. The City Council finds that massage establishments as described herein pose significant and urgent threats to the health, safety and welfare of the community as follows:

- a. In recent years, the City has experienced issues related to illicit sexual activity and suspected prostitution at businesses offering massage services.
- b. In recent years, the Community Development Department’s Code Enforcement Division and the Orange Police Department have received emails, calls for service, and anonymous complaints from community members reporting suspected prostitution and illicit sexual activity occurring at massage establishments within the City.
- c. In recent years, substantial evidence obtained through more than twenty joint criminal investigations conducted by the Community Development Department’s Code Enforcement Division and the Orange Police Department has revealed recurring health, safety, and code violations, including, but not limited to, unlicensed operations, non-state-certified massage therapists, unpermitted construction of rooms and shower facilities, unsanitary and poorly maintained facilities, unlawful alcohol service, illicit advertising of unprofessional conduct, and suspected unlawful sexual activity;
- d. Earlier this year, the Orange Police Department’s Special Weapons and Tactics Team executed a court-authorized search warrant at a massage establishment with assistance from the City’s Code Enforcement Division. The investigation documented multiple violations, including the absence of state-certified massage therapists, evidence that massage services were being performed at the time of inspection, unlawful alcohol

service, and other conditions inconsistent with lawful operation, thereby demonstrating the ongoing and immediate nature of these enforcement concerns;

- e. The above illegal activity resulted in significant public expense including code enforcement inspections, law enforcement surveillance operations, and administrative and legal review and enforcement actions. These illegal activities diverted resources from other pressing City needs.
- f. Massage establishments that offer illicit sexual activity pose an immediate and significant threat to the health, safety and welfare of the community. Among other things, these impacts include the potential for: (1) injury and abuse to patrons being solicited for unlawful services, and (2) increased opportunities for prostitution activity and human trafficking of workers by virtue of the secretive nature associated with offering unauthorized and undisclosed services.

SECTION IV:

Directive. The City Council hereby directs and orders that, during the time that this urgency ordinance is in effect, the City will not approve or issue any use permit, variance, building permit, or other applicable entitlement for the following: New massage establishments, or the enlargement of existing massage establishments. During the moratorium period, any massage establishment that has obtained a use permit will be allowed to obtain a license and building permit to establish. Existing massage businesses may continue to apply for licenses or license renewals, and the City may continue to make final decisions on those applications.

SECTION V:

Applications. The City will continue to accept and process applications for uses prohibited by this moratorium if so legally required. Any application received and processed during the moratorium shall be processed at the applicant's sole cost and risk with the understanding that no permit, approval or other entitlement for a use covered by Section 4, above, may issue while this moratorium or any extension thereof is in effect. Notwithstanding anything to the contrary, the City will process and make final decisions on massage establishment license applications and renewals thereof during the moratorium period or any extension thereof.

SECTION VI:

Effective Date and Duration. In accordance with California Government Code Sections 36937 and 65858, this moratorium shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council and shall remain in full force and effect for forty-five (45) days from the date of adoption unless earlier repealed or extended by the City Council pursuant to California Government Code Section 65858.

SECTION VII:

Report. No less than 10 days prior to the scheduled expiration of this Ordinance, staff shall issue a report to the City Council on the progress of its study and on determinations for how the City should proceed, insofar as conclusions have been drawn.

SECTION VIII:

Custodian of Records. The custodian of records for this Ordinance is the City Clerk and the records comprising the administrative record are located at Orange City Hall, 300 E. Chapman Avenue, Orange, California 92866.

SECTION IX:

Enforcement. The City may enforce any provision of this Ordinance by mandamus, injunction, or any other appropriate civil remedy in any court of competent jurisdiction.

SECTION X:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XI:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law.

ADOPTED this ____ day of _____, 2026.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Nathalie Adourian, City Attorney, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Urgency Ordinance was duly passed at the regular meeting of the City Council held on the _____ day of _____, 2026 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange