

1 **WHEREAS**, the City’s Solicitors – Canvassers regulations, Chapter 5.16 of Title 5 of
2 the Colton Municipal Code, was adopted in 1950 with minor amendments adopted in 1972;
3 and

4 **WHEREAS**, it has been determined that the Solicitors – Canvassers regulations are
5 out of date with respect to current legal interpretations and standard practices; and
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7
8 **WHEREAS**, the City Council now wishes to amend Chapter 5.16 to bring the
9 Solicitors – Canvassers regulations into conformity with current legal interpretations and
10 standard practices;
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12 **WHEREAS**, Chapter 5.24 of the Colton Municipal Code presently provides a system
13 through which massage parlors and massage technicians are regulated by the City; and
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15 **WHEREAS**, in 2008, the Legislature adopted Senate Bill 731, which created the
16 California Massage Therapy Council, a state-organized nonprofit organization with regulatory
17 authority over the certification of massage practitioners throughout the State of California;
18 and

19 **WHEREAS**, Senate Bill 731 has been widely criticized by local agencies as providing
20 massage businesses with almost unprecedented protection from local zoning and land use
21 authority, and interfering with local law enforcement efforts to close massage businesses that
22 allow prostitution, human trafficking and other illegal activities; and
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24 **WHEREAS**, Assembly Bill 1147, signed by Governor Jerry Brown, was created in
25 response to criticism against Senate Bill 731 and allows local agencies to impose reasonable
26 zoning, business licensing, and health and safety requirements on massage establishments;
27 and
28

1 **WHEREAS**, the City Council now wishes to amend Chapter 5.24 to conform with the
2 requirements of SB 731 and AB 1147.

3
4 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON**
5 **DOES ORDAIN AS FOLLOWS:**

6
7 **SECTION 1:** Chapter 5.14 of Title 5 of the Colton Municipal Code is hereby added to
8 read as follows:

9 **“Chapter 5.14 – MOBILE FOOD VEHICLES**
10 **Sections:**

11 **5.14.010 – Purpose and intent.**

12 The City expressly finds that mobile food vehicles have the potential to pose traffic
13 hazards and special dangers to the public health, safety and welfare. It is the purpose and
14 intent of the City, in enacting this section, to provide responsible companies and persons,
15 which engage in the operation of a mobile food vehicle on public property, with clear and
16 concise regulations to prevent safety, traffic and health hazards, as well as to preserve the
17 peace, safety and welfare of the community.

18 **5.14.020 – Permit required.**

19 It is unlawful for any person to sell or offer for sale, or operate any vehicle or conduct
20 any business for the purpose of causing sale of, or offering for sale, any hot and/or cold foods
21 and related goods or merchandise, from any mobile food vehicle parked, stopped or standing
22 upon any public street, alley, parkway, sidewalk or public property in the City, except in
23 accordance with all applicable provisions of this section. Mobile food vehicles on private
24 property associated with temporary, private events shall be permitted and licensed under
25 Chapter 5.44 of this Title, “Special Events.” All mobile food vehicles and their operators
26 conducting business in the city shall comply with the following:

- 27 A. Shall obtain a business license for each mobile food vehicle before vending in the
28 City. In addition, the mobile food vehicle shall possess a valid Mobile Food Facility

1 Health Permit issued by the County of San Bernardino, Division of Environmental
2 Health Services (“county health department”).

- 3 a. Upon applying for a business license, evidence shall be submitted to the
4 Business License Officer demonstrating that the operator or vendor has
5 obtained a sellers permit from the State Board of Equalization;
6 b. The business license shall not be transferrable to a different vehicle, person,
7 company, operator or vendor. The City shall be notified in writing if there are
8 changes in the contact information for the person(s) responsible or company.

9 B. Properly licensed mobile food vehicles shall:

- 10 a. Have a decal and letter grade posted on the vehicle issued by the county health
11 department;
12 b. Possess current San Bernardino County food handlers card for all employees
13 handling food, and at least one original Managers Certificate.
14 c. Obtain property owner authorization in writing when temporarily or
15 permanently vending on private property;
16 d. Carry evidence of property owner authorization at all times;
17 e. Not be stationed within a street or public way or within the clear sight triangle;
18 f. Not be stationed within three hundred (300) feet from any operating
19 commercial restaurant building in the City of Colton, unless the mobile food
20 vehicle is operated by said vehicle or is authorized by a Special Event Permit;
21 g. Not be stationed in any location that blocks or otherwise interferes with the
22 free movement of vehicles, pedestrians, or accessible (handicap) parking or
23 path of travel.
24 h. Not be stationary on any site for a period exceeding sixty (60) minutes unless a
25 readily available toilet and handwashing facility are provided within two
26 hundred (200) feet of the vehicle. After the allotted time, vehicles shall not
27 vend on the same property, or within five hundred (500) feet of that property,
28 for a period of two hours;
i. Not back up in a street or public way to make or attempt to make a sale;

- 1 j. Not operate between the hours of 9:00 p.m. and 8:00 a.m. within any
2 residentially designated area and shall not operate within one hundred fifty
3 (150) from any residential designated and built property.
- 4 k. Shall be equipped with refuse containers large enough to contain all refuse
5 generated by the operation of such vehicle, and the operator of the food vehicle
6 shall pick up all refuse generated by such operation within a fifty-foot radius of
7 the vehicle before such vehicle is moved;
- 8 l. A commercial property or shopping center, which has three or more mobile
9 food vehicles at the same time, shall be required to obtain a Special Event
10 Permit pursuant to the provisions of Chapter 5.44.
- 11 m. Prominently display the company's name, address and phone number with
12 two-inch minimum letters and numbers on both sides of the vehicle.
- 13 n. One portable sign, not to exceed twenty (20) square feet and a height of four
14 feet, may be displayed outside of a mobile food vehicle when displayed in
15 conjunction with an operating mobile food vehicle. The sign shall be
16 considered part of the mobile food vehicle and cannot be placed where the
17 vehicle would otherwise be prohibited. The sign shall be removed upon the
18 mobile food vehicle leaving the property.
- 19 o. Shall be subject to other regulations in the Colton Municipal Code, including
20 but not limited to noise and light/glare regulations;
- 21 p. Other non-motorized mobile food vending apparatuses (e.g., push carts,
22 bicycle carts), not classified as mobile food vehicles, shall be regulated by
23 Chapter 5.16 – Peddlers, Solicitors, Canvassers.

24 **5.14.030 – Fees.**

25 Fees for a business license to operate a mobile food vehicle shall be as prescribed in
26 Chapter 5.02, Section 5.02.390 (Classification A) of this Title.

27 **5.14.40 – Liability.**

28 No person shall drive or operate or cause or permit to be driven any mobile food
vehicle in the City unless the operator or vendor thereof shall have obtained a liability

1 insurance policy from a responsible and solvent corporation, authorized to issue such policies
2 under the laws of the state, insuring such operator or vendor and covering the mobile food
3 vehicle. The City of Colton shall be named as an additional insured under the policy. The
4 Development Service s Director may waive the insurance requirement for special events with
5 a valid Special Event Permit.

6 **5.14.50 – Actions as a result of violations.**

7 The Development Services Director or his/her designee may deny an application for a
8 mobile food services business license if there is evidence on the record that the mobile food
9 service vehicle has operated at an event, within the City, in violation of the law, and/or poses
10 a threat to the public’s health, safety and welfare.

- 11 A. License denial —notice. Notice of the denial of a license shall be given in writing,
12 setting forth specifically the grounds for denial and the opportunity to appeal the
13 denial. Such notice shall be mailed, postage prepaid, to the licensee at his last known
14 address within five days following denial of the license application.
- 15 B. Appeals. Denial of a business license for a mobile food service vehicle may be
16 appealed by applicant to the Code Compliance and Housing Appeals Board
17 (CCHAB). Such appeal shall be taken by filing with the City Clerk, within fourteen
18 days after notice of the action has been mailed to appellant’s last known address, a
19 written statement setting forth fully the grounds for the appeal. The CCHAB shall set a
20 time and place for a hearing on such appeal and notice of such hearing shall be given
21 to the appellant in the manner as provided in Chapter 8.04, Section 8.04.090. The
22 decision and order of the CCHAB on such appeal shall be final and conclusive.
- 23 C. Revocation of license. Licenses issued under the provisions of this chapter may be
24 revoked by the after notice and hearing by CCHAB, for any of the following causes:
- 25 a. Fraud, misrepresentation, or false statement contained in the Application for
license; and
 - 26 b. Any violation of this chapter.

27 The decision and order of the CCHAB on such appeal shall be final and conclusive.”

1 neighborhood to sell services. Failure to display or exhibit the permit is a violation of this
2 chapter.

3 **5.15.050 – Prior approval required.**

4 Prior to painting house numbers, the permit holder shall obtain the written consent of
5 an adult owner and/or occupant of the abutting property. The permit and business license
6 shall be on display in a conspicuous place and available for inspection by the owner and/or
7 occupant of the property. In addition to written consent from the owner and/or occupant, the
8 form used for obtaining consent shall also specify the exact fee or donation which is expected
9 to be paid. The silence of the owner and/or occupant of the failure or omission of any
10 occupant to complete or sign the form or to in any other manner indicate consent or refusal to
11 have house numbers painted on the curb shall not constitute consent or in any way be relied
12 on by the permit holder as indicating consent. No person other than an adult owner and/or
13 occupant who has consented in writing shall have any responsibility for payment of the fee or
14 donation.

14 **5.15.060 – Standards.**

15 The Public Works Department shall establish standards which shall govern the
16 appearance of house numbers on curbs and the manner in which they may be applied,
17 including but not limited to standards relating to the size, color and location of the numbers
18 and materials used to apply the numbers. The standards shall be provided in writing to every
19 person to whom the permit is issued and the permit holder shall sign a copy of the standards
20 which includes a statement indicating that the permit holder has read and understands the
21 standards and will follow them in applying curb numbers. The signed copy shall be retained
22 in the Department's files relating to the applicant.

22 **5.15.070 – Liability.**

23 The issuance of a permit hereunder shall not be construed as imposing any
24 responsibility or liability on the City or any of its officers or employees for claims for
25 property damage or personal injury in any way arising out of, or relating to, the house number
26 painting activities of the permit holder. It is unlawful for the permit holder to in any way
27 represent or imply to anyone that the permit holder is a representative, or is acting for or on
28 behalf of, the City or any other public agency in offering to paint house numbers on curbs.

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A. Permit holder shall indemnify, defend and save the City, its authorized agents, officers, representatives and employees, harmless from and against any and all penalties, liabilities or loss resulting from claims of court action and arising out of any accident, loss or damage to persons or property happening or occurring as a proximate result of any work undertaken under the permit granted pursuant to this application.

B. Permit holder shall comply with terms and conditions of the permit and all applicable rules and regulations of the City of Colton and other public agencies having jurisdiction.

5.15.080 – Conditions.

The issuance of a permit pursuant to this chapter shall be conditioned on compliance by the applicant with all provisions of this chapter and shall be subject to any special conditions which the Public Works Department determines to be necessary for the purpose of protecting the condition and use of City rights-of-way and public improvements located thereon and the health, safety and general welfare of the property owners abutting on the rights-of-way on which the applicant intends to paint house numbers. Such special conditions may include, but are not limited to, limits on the house during which the permit holder may solicit orders and the hours during which the house number painting activity may take place and a permit expiration date which shall not be later than the sixtieth (60th) day following the date on which the permit is issued. It is unlawful for the permit holder or any employee or representative of the permit holder to solicit orders or engage in house number painting activities in violation of any such special conditions. Special conditions applicable to a permit shall be specified in writing on the permit or in a written attachment thereto.

5.15.090 – Employee list.

Before issuance of any permit, the applicant shall file with the Public Works Department a list of the names and addresses of all persons who will be in the employ of, or act as representatives of, the permit holder, for the purpose of carrying on the activities authorized by the permit. The permit holder shall notify the Public Works Department in

1 writing of any additions to the list within seventy-two (72) hours following the addition of
2 any new employee or representative. The permit holder shall have a person on location to act
3 as manager at all times during which the street numbering activities are conducted.

4
5 **5.15.100 – Records.**

6 The permit holder shall maintain a record of the streets and curb numbers in which he
7 or she paints street address numbers. A list of such streets shall be forwarded to the Public
8 Works Director upon completion of the work on a weekly basis.

9 **5.15.110 – Cancellation and revocation.**

10 A permit may be cancelled by the Public Works Department and business license
11 revoked by the Business License Officer if it is determined that the permit holder or his
12 representatives have violated any of the requirements of this chapter or have engaged in any
13 other conduct or activity on the basis of which it is determined that the permit should be
14 cancelled and the business license revoked for the protection of public health, safety or
15 general welfare. Notice of cancellation and/or revocation shall be in writing and shall specify
16 the reasons for the cancellation and/or revocation. The cancellation and/or revocation shall be
17 effective immediately upon confirmation of delivery to the permit holder or his/her authorized
18 representative.

19 **5.15.120 – Appeal.**

20 The cancellation of a permit as provided in CMC Section 5.15.110 shall be final on the
21 expiration of ten (10) days following the effective date of the revocation unless the permit
22 holder files a written notice of appeal to the City Council pursuant to CMC Chapter 5.44.220.

23 **5.15.130 – Penalty.**

24 Violation of any requirement or prohibition of this chapter is a misdemeanor and is
25 punishable as set forth by Title 9, Chapter 5 (Offense Against Property), Section 9.24.040
26 and is subject to administrative penalties as may be set forth in this Code.

27 **SECTION 3:** Chapter 5.16 of Title 5 of the Colton Municipal Code is hereby
28 amended in its entirety to read as follows:

1
2 **“Chapter 5.16 – PEDDLERS, SOLICITORS, CANVASSERS**

3 **Sections:**

4 **5.16.010 - Defined.**

5 A. A “Peddler” is defined as any individual, whether resident of the City or not,
6 traveling either by foot, automobile, truck or any other type of conveyance, from place to
7 place, from house to house or along the streets of the City, selling and making immediate
8 delivery of, or offering for sale and immediate delivery of, any goods, wares, merchandise or
9 anything of value, in possession of the person. “Goods” shall include any items identified in
10 Colton Municipal Code Section 12.44.010 as “any consumable items, foods, beverages,
11 merchandise or wares, being offered for sale,” as well as flowers, fruit and other perishable
12 items.

13 B. A "Canvasser" or "Solicitor" is defined as any individual, traveling either by
14 foot, automobile, truck or any other type of conveyance, from place to place, from house to
15 house or along the streets of the City taking or attempting to take orders for Sale of Goods,
16 wares or merchandise, Personal Property of any nature whatsoever for future delivery services
17 to be furnished or performed in the future.

18 **5.16.020 - Permit and license—Required.**

19 It is unlawful for any Peddler, Solicitor or Canvasser as defined in Section 5.16.010 of
20 this chapter to engage in such Business or activity within the corporate limits of the City
21 without first obtaining a Permit and license therefor in compliance with the provisions of this
22 chapter.

23 **5.16.030 - Permit and license—Application—Filing and information required.**

24 Applicants for Permit and license under this chapter must file with the City an
25 Application in writing on a form to be furnished by the City Manager, or his or her designee,
26 which shall give the Following information:

27 A. Name, address and telephone number of the Applicant; including:

28 a. The true and fictitious names, aliases and residences of the applicant if an
individual; the true and fictitious names, aliases and residences of all members

1 of the applicant if the applicant is a firm, association or partnership; the true
2 and fictitious names, aliases and residences of the principal officers of the
3 applicant if the applicant is a corporation; and

4 b. The birth date and social security number of each and every person enumerated
5 in subdivision (a);

6 c. If employed, the name and address of the employer, together with credentials
7 establishing the exact relationship;

8 B. A brief description of the nature of the Business or activity, and the Goods or
9 Services to be sold;

10 C. The length of time for which the right to do Business is desired;

11 D. A copy of the State of California Sales Tax Permit (Revenue & Taxation Code
12 §6066) for the applicant's activities as proposed in the application;

13 E. A copy of the articles of incorporation for the corporate entity or non-profit.

14 F. The geographic area(s) where the Goods or Services proposed to be sold, or orders
15 taken for the Sale thereof, and the proposed method of delivery;

16 G. Such other reasonable information as to identify the background of the persons
17 enumerated in division (A) as the Chief of Police may require, including but not
18 limited to, fingerprints and photograph(s) of Applicant(s). The fingerprints shall be
19 submitted via LiveScan™, or equivalent direct input process, to the California
20 Department of Justice with criminal history results directed to the mnemonics of the
21 Colton Police Department at least thirty calendar days in advance of the proposed
22 activity;

23 H. A statement as to whether or not the Applicant has been convicted of any felony,
24 misdemeanor, or Violation of any municipal Ordinance, within the past ten years,
25 including the nature, place and date of any conviction for the offense and the
26 punishment or penalty assessed therefor; and

27 I. If food products are sold, the applicant shall obtain a Health Permit issued by the
28 County of San Bernardino, Division of Environmental Health Services ("county
health department").

1 **5.16.040 - Permit and license—Application—Fee.**

2 At the time of filing the Application a Fee in an amount to be determined by Resolution
3 of the City Council Shall be paid to the City to cover the cost of investigation of the facts
4 stated therein.

5 **5.16.050 - Investigation of Applicant.**

6 Upon receipt of such Application, the original shall be referred to the Chief of Police,
7 who shall cause such investigation of the Applicant's Business and moral character to be made
8 as he deems necessary for the protection of the public good. The applicant shall cooperate
9 with the Police Department in conducting their investigation and shall, if requested, provide
10 the Police Department with other documents and materials which may be requested that
11 reasonably relate to the course of the department's investigation. Within forty-five calendar
12 days of the date the application is filed with the City, the Chief of Police shall report to the
13 issuing department recommending approval or denial of the permit and stating the reasons
therefore.

14 **5.16.051 - Permit—Temporary.**

15 Upon receipt of an Application, the City may issue a temporary Permit pending
16 completion of the background investigation. Such Permit shall be revocable at any time and
17 shall not be granted for a period exceeding one year.

18 **5.16.060 - Permit and license—Application—Disapproval—Non-issuance.**

19 If as a result of such investigation, the Applicant's character or Business responsibility is
20 found to be unsatisfactory, the Chief of Police Shall endorse on such Application his
21 disapproval and his reasons for the same, and return the Application to the Business License
22 Officer Shall notify the Applicant that his Application is disapproved and that no Permit and
23 license will be issued.

24 **5.16.070 - Permit and license—Application—Approval—Issuance—Record.**

25 If as a result of such investigation, the character and Business responsibility of the
26 Applicant are found to be satisfactory, the Chief of Police Shall endorse on the Application
27 his Approval for the carrying on of the Business applied for and return the Application to the
28 Business License Officer who Shall, upon payment of the prescribed license Fee, issue the

1 Applicant his Permit and license. Such license Shall and Shall show name, address and
2 photograph of the licensee, the class of license issued and the kind of Goods to be sold
3 thereunder, the amount of Fee paid, the date of issuance and the length of time the same Shall
4 be operative, as well as the license number and other identifying description of any Vehicle
5 Used in such soliciting or canvassing. The Business License Officer Shall keep a permanent
6 record of all permits and licenses issued.

7 **5.16.080 - Time for solicitation.**

8 No Permit as herein contemplated shall be issued to allow peddling, canvassing or
9 solicitations before nine a.m. in the morning or after sundown.

10 **5.16.090 - Fee—Designated.**

11 Fees for a permit and license for Peddling, Soliciting, or canvassing in the City shall be as
12 prescribed in Chapter 5.02 of this Title.

13 **5.16.130 - Fees Exemption.**

14 Whenever any person intends to peddle or solicit goods, wares, services or merchandise
15 for the purpose of raising funds of soliciting donations for a tax exempt organization (i.e.,
16 registered 501(c)(3) organizations), said applicant may apply to the Business License Officer
17 for a permit to be issued with payment of one-half of the adopted permit fee. No exemption
18 shall be provided for the Police background check.

19 **5.16.140 – Exemptions from Chapter 5.16.**

20 This chapter shall not apply to children, under the age of 18 years, selling items
21 without compensation for schools, charitable organizations, scouts, athletic teams, or other
22 such organized fundraising events.

23 **5.16.150 – Display of Permit.**

24 Every person to whom a permit and license has been granted shall display the permit in a
25 conspicuous place, or on the front of his or her garment, at all times while peddling, soliciting
26 or canvassing. Peddlers, Solicitors, and Canvassers are required to exhibit their licenses at the
27 request of any citizen or Police Officer. Failure to display or exhibit the permit is a violation
28 of this chapter.

1 **5.16.16 - Duty of Police to enforce provisions.**

2 It Shall be the duty of any Police Officer of the City to require any Person seen soliciting
3 or canvassing, and who is not known by such Officer to be duly licensed, to produce his
4 Peddler's, Solicitor's or Canvasser's license and to enforce the provisions of this chapter
5 against any Person found to be violating the same.

6 **5.16.17- Record of convictions for Violations to be kept.**

7 The Chief of Police Shall maintain a record and report to the Business License Officer all
8 convictions for Violation of this chapter and the Business License Officer Shall maintain a
9 record for each license issued and record the reports of Violation therein.

10 **5.16.18 - Permit and license—Revocation.**

11 Permits and licenses issued under the provisions of this chapter may be revoked by the
12 Code Compliance and Housing Appeals Board after Notice and hearing, for any of the
13 Following causes:

- 14 A. Fraud, misrepresentation, or false statement contained in the Application for license;
- 15 B. Fraud, misrepresentation or false statement made in the course of carrying on his
16 Business as Solicitor or as Canvasser;
- 17 C. Any Violation of this chapter;
- 18 D. Conviction of any crime or misdemeanor involving moral turpitude; or
- 19 E. Conducting the Business of soliciting, or of canvassing, in an unlawful manner or in
20 such a manner as to constitute a breach of the peace or to constitute a menace of the
21 health, safety, or general welfare of the public.

22 **5.16.19 - Hearing for license revocation—Notice.**

23 Notice of the hearing for revocation of a permit or license shall be given in writing,
24 setting forth specifically the grounds of complaint and the time and place of hearing. Such
25 Notice Shall be mailed, postage prepaid, to the licensee at his last known address at least five
26 calendar Days prior to the date set for hearing.

27 **5.16.20 - Appeal from Permit or license denial or Fee adjustment Decision—Hearing
28 procedure.**

1 Any Person aggrieved by the action of Business License Officer in the denial of a Permit
2 or license as provided in Section 5.16.060, or the action of the City in the assessing of the Fee
3 as provided in Section 5.16.140 Shall have the right of Appeal to the Code Compliance and
4 Housing Appeals Board. Such Appeal Shall be taken by filing with the City Clerk, within
5 fourteen calendar Days after Notice of the action complained of has been mailed to such
6 Person's last known address, a Written statement setting forth fully the grounds for the
7 Appeal. The Code Compliance and Housing Appeals Board Shall set a time and place for a
8 hearing on such Appeal and Notice of such hearing shall be given to the appellant in the same
9 manner as provided in Section 5.16.200 for Notice of hearing or revocation. The Decision and
10 order of the Code Compliance and Housing Appeals Board on such Appeal Shall be final and
conclusive.

11 **5.16.21 - Penalty for Violation.**

12 Any Person violating any of the provisions of this chapter shall, upon conviction thereof,
13 be punished by a fine in accordance with the most recently adopted citation fee schedule.”

14 **SECTION 4:** Chapter 5.24 of Title 5 of the Colton Municipal Code is hereby amended in
15 its entirety to read as follows:

16
17 **“Chapter 5.24 - MASSAGE PARLORS AND MASSAGE TECHNICIANS**

18 **Sections:**

19 **5.24.010 - Definitions.**

20 The following words as used in this Chapter shall have the signification attached to
21 them in this Chapter unless otherwise clearly apparent from the context:

22
23 “CAMTC Certificate” means a certificate issued by the California Massage Therapy
24 Council to a Person who has obtained the right to use the title Certified Massage Therapist or
25 Certified Massage Practitioner.

26 “Cosmetology Establishment” means an establishment which is licensed pursuant to
27 all applicable Federal, State and Local Laws, rules and regulations to provide primarily the
28 following types of services: (1) shaving or trimming the beard or cutting the hair of a Person;

1 (2) giving facial and scalp Massages or treatments to a Person; (3) shampooing, arranging,
2 dressing, curling, waving, relaxing, permanent waving, coloring or straightening the hair of a
3 Person; (4) removing superfluous hair from the body of any Person by the Use of depilatories,
4 tweezers or chemicals; and (5) cutting, trimming, polishing, tinting, coloring, cleansing, or
5 manicuring the nails of any Person.

6 "Licensed Massage Technician" means any Person who administers Massage upon
7 another human being in exchange for anything of value whatsoever while in the possession of
8 a valid CAMTC Certificate.

9
10 "Massage" means and includes any method of treating or manipulating the external
11 parts of the human body for remedial, hygienic, relaxation or any other purpose, whether by
12 means of pressure on, friction against or rubbing, touching, stroking, tapping, kneading,
13 pounding, vibrating or other manner of touching external parts of the human body with the
14 hands or by means of an instrument, such as any mechanical or electrical apparatus or
15 appliance, with or without supplementary aids such as rubbing alcohol, liniment, antiseptic,
16 oil, powders, creams, ointment or other similar preparations commonly used in this practice.

17 "Massage Parlor" means any business wherein any Person, firm, association,
18 partnership, corporation, or combination of the same engages in, conducts, carries on or
19 permits to be engaged in, conducted or carried on, for money or any other consideration
20 whatsoever, the administration to another Person of a Massage or a bath or health treatment
21 involving a Massage. "Massage Parlor" shall not include Cosmetology Establishments.

22 "Operator" means all Persons who have an ownership interest in a Massage Parlor or a
23 Cosmetology Establishment and who are responsible for the Day to Day operations of the
24 establishment.

25 "Person" means any individual, corporation, partnership, association or other group or
26 combination of the same acting as an entity.

27
28 "Unlicensed Massage Technician" means any Person who administers Massage upon

1 another human being in exchange for anything of value whatsoever without a valid CAMTC
2 Certificate.

3
4 **5.24.020 - Business License—Required/Fee.**

5 A. The fee for an owner or operator of a Massage Parlor shall be set in accordance with
6 Chapter 5.02.

7 **5.24.030 - Massage Parlor Permit.**

8 A. It is unlawful for any Person to own or operate, in or upon any fixed premises within
9 the City, a Massage Parlor in the absence of a Permit issued pursuant to the provisions
10 hereinafter set forth.

11 B. Notwithstanding anything to the contrary in subsection A of this section, Persons who
12 own or operate licensed Cosmetology Establishments and who wish to provide
13 incidental Massage services pursuant to Section 5.24.190, need not obtain a Permit
14 pursuant to this Section.

15 C. Each applicant shall pay a nonrefundable fee, in an amount determined by Resolution
16 of the City Council, at the time they submit a Permit application or renewal
17 application under this section. The application fee is for the purpose of defraying the
18 expense of investigation, administration and issuance of said Permit.

19
20 **5.24.040 – Unlicensed Massage Technicians.**

21 A. It is unlawful for any Person to engage in, conduct or carry on, attempt to engage in,
22 conduct or carry on, or Permit to be engaged in, conducted or carried on the business
23 of an Unlicensed Massage Technician at any location within the City, including a
24 Massage Parlor and a Cosmetology Establishment.

25 B. The requirements of this Section shall have no Application and no effect upon, and
26 Shall not be construed as applying to, any physician, surgeon, chiropractor, osteopath,
27 or physical therapist fully licensed by the State, or any nurse, assistant, trainee or other
28 Person administering under the immediate direction, supervision and control of any

1 physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the
2 State. This section does not apply to any treatment administered in good faith in the
3 course of the practice of any healing art or professions by any Person licensed to
4 practice any such art or professions under the Business and Professions Code of the
5 State or any other Law of this State.

6 **5.24.050 – Permit Application contents.**

7 A. An applicant for a Massage Parlor Permit shall submit the following information:

- 8 1. Full name and any aliases heretofore used or currently used, and current
9 addresses;
- 10 2. Written proof that the applicant is over the age of eighteen Years;
- 11 3. The business, occupation, or employment of the applicant for three years
12 immediately preceding the date of the application;
- 13 4. Any Massage or similar Business License history of the applicant, including
14 whether such Person, in previous operation, in this or another area, has had his
15 or her license revoked or suspended, the reason therefor, and any business
16 activity or occupation subsequent to the action of suspension or revocation;
and
- 17 5. A full list of all Licensed Massage Technicians who will practice at the
18 premises. For each Licensed Massage Technician listed, applicant shall
19 provide the current CAMTC Certificate number and a copy of the CAMTC
20 Certificate.

21 **5.24.060 - Permit—Procedure.**

22 Upon payment of all fees, the accurate submission of all information required by the
23 application, and upon proper inspection, the appropriate Permit shall be granted. Any Person
24 denied a Permit pursuant to these provisions may appeal to the City Council in writing, stating
25 reasons why the Permit should be granted. The City Council may grant or deny the Permit.
26 All Permits issued hereunder are nontransferable; provided, however, that a change of
27 location of a Massage Parlor may be permitted pursuant to Section 5.24.080.

28 **5.24.070 - Display of Permit and Certificates.**

1 Every Person to whom a Massage Parlor Permit has been granted shall display the
2 Permit and the current CAMTC Certificate held by each Licensed Massage Technician
3 employed therein in a conspicuous place at the premises.

4
5 **5.24.080 - Change of location.**

6 A change of location of Massage Parlor premises shall be Approved by the Chief of
7 Police provided all applicable laws are complied with and the change of location fee of ten
8 dollars is first paid.

9 **5.24.090 - Permit—Expiration and renewal.**

10 A. All Permits issued under provisions hereof shall expire on the first day of January of
11 each year. A renewal Permit may be issued upon application to the collections officer
12 and the payment of a renewal fee of ten dollars. Any application for renewal must be
13 made on or before the fifteenth day of January of each year. In the event of failure to
14 so apply for renewal of a Permit on or before the fifteenth day of January, a Person
15 whose Permit has expired shall be deemed a new applicant and shall have to requalify
16 under the provisions herein. With each new year's renewal application, Persons
17 holding a Massage Parlor Permit must submit a list of all Licensed Massage
18 Technicians who will practice at the premises. For each Licensed Massage Technician
19 listed, applicant shall provide the current CAMTC Certificate number and shall
20 provide copies of CAMTC Certificates of Licensed Massage Technicians who have
21 been employed by the Massage Parlor during the prior year.

22 **5.24.100 - Facilities.**

23 No Massage Parlor Permit shall be issued unless an inspection discloses that the
24 Massage Parlor complies with each of the following minimum requirements:

25 A. A readable sign in compliance with this Code shall be posted at the main entrance
26 identifying the business as a Massage Parlor.

27 B. Minimum lighting shall be provided in accordance with the Uniform Building Code,
28 and additionally, at least one artificial light of not less than forty watts shall be

1 provided each enclosed room or booth where Massage services are being rendered.

2

3 C. Minimum ventilation shall be provided in accordance with the Uniform Building
4 Code.

4

5 D. Adequate equipment for disinfecting and sterilizing any instruments used for Massage
6 Shall be provided.

7

8 E. Hot and cold running water shall be provided.

9

10 F. Closed cabinets shall be utilized for the storage of clean linen.

11 G. Adequate dressing and toilet facilities shall be provided for the patrons. Such facilities
12 shall be equipped with adequate locking devices.

13

14 H. All walls, ceilings, floors, steam or vapor rooms, and all other physical facilities for
15 the Massage Parlor shall be kept in good repair and shall be maintained in a clean and
16 sanitary condition.

17

18 I. Clean and sanitary towels and linens shall be provided for patrons receiving
19 Massage services. No common use of towels or linens shall be permitted.

20 **5.24.110 - Employee—Restrictions.**

21 No Person holding a Massage Parlor permit may hire any Unlicensed Massage
22 Technician or permit any Unlicensed Massage Technician to perform Massages at the
23 premises.

24 **5.24.130 - Inspection.**

25 The Chief of Police and/or the collections officer of the City, or their Representatives,
26 may inspect any Massage Parlor or Cosmetology Establishment in which Incidental Massage
27 services are performed pursuant to this Chapter upon either one week's written notice or
28 immediately with a search warrant for the purpose of determining that the provisions of this

1 Chapter are met.

2
3 **5.24.140 - Records of treatment.**

4 Every Person owning or operating a Massage Parlor under a Permit as herein
5 provided, and any Person owning or operating a Cosmetology Establishment in which
6 Incidental Massage services are performed pursuant to this Chapter, shall keep a record of the
7 date and hour of each treatment, the name and address of the patron, and the name of the
8 technician administering such treatment. Identical records shall be kept of treatment rendered
9 off the premises, and, in addition, shall describe the address where the treatment was
10 rendered. Such records shall be maintained for a period of two years. Such records shall be
11 open to inspection upon one week's written notice or immediately with a search warrant by
12 officials charged with the enforcement of these provisions for the purposes of Law
13 enforcement and for other purposes related to this Chapter.

13 **5.24.150 - Grounds for revocation.**

14 A. A Massage Parlor Permit may be revoked as set forth in Section 5.24.160 on one or
15 more of the following grounds:

- 16 1. That the holder is guilty of fraud or deceit in her or his application for a
17 Permit;
- 18 2. That the holder is permitting the practice of Massage in a manner intended to
19 arouse, appeal to, or gratify the lust or passions or sexual desires of another, or
20 that the holder is permitting the practice medicine without a license or
21 engaging in other similar unauthorized practices;
- 22 3. That the holder has been convicted in a court of competent jurisdiction of a
23 felony or a crime of moral turpitude. The conviction of a felony shall include
24 the conviction of an offense which, if committed within the State, would
25 constitute a felony under the laws thereof; or
- 26 4. That the holder has employed, allowed or permitted an Unlicensed Massage
27 Technician to perform Massage at the premises.

27 **5.24.160 - Revocation and Appeal.**

28 If any Person holding a Permit to carry on the business of a Massage Parlor, as

1 provided in this Chapter, shall conduct or carry on such business contrary to the provisions of
2 this Chapter or any other law relating to or regulating such business, it shall be subject to
3 suspension, revocation, and any other penalty permitted under this Code.

4 No Permit shall be suspended or revoked until after a hearing has been conducted
5 before the City Council relating to such suspension or revocation. Notice of such hearing shall
6 be given in writing and shall be served at least ten days prior to the date of the hearing
7 thereon, which notice shall state the grounds of complaint against the holder of such Permit,
8 or against the business carried on by her or him and shall also state the time when and the
9 place where such hearing will be held. Such notice shall be served upon the holder of such
10 Permit by delivering the same to such Person, his manager or agent, or to any Person in
11 charge of, or employed in the place of business of such licensee or by leaving such notice at
12 the place of business or residence of such Person with some Person of suitable age and
13 discretion. In the event the holder of such license cannot be found, and a service of such
14 Notice cannot be made upon him or her in the manner herein provided, then a copy of such
15 notice shall be mailed, postage fully prepaid, addressed to such holder or such licensee at his
16 place of business or residence at least ten days prior to the date of such hearing.

16 **5.24.170 - Abatement.**

17 Any Massage Parlor or Cosmetology Establishment in which Incidental Massage
18 services are performed pursuant to this Chapter that is operated, conducted, or maintained
19 contrary to the provisions of this Chapter shall be and the same is declared to be unlawful and
20 a Public Nuisance. The City Attorney or the District Attorney may, in addition to or in lieu of
21 prosecution in a criminal action hereunder, commence an action or actions, proceeding or
22 proceedings for the abatement, removal, and enjoinder thereof, in the manner provided by
23 law. They shall also take such other steps, and shall apply to such courts or court as may have
24 jurisdiction to grant such relief, as will abate or remove such Massage Parlor or Cosmetology
25 Establishment and restrain and enjoin any Person from operating, conducting, or maintaining
26 a Massage Parlor or Cosmetology Establishment contrary to the provisions of this Chapter.

26 **5.24.180 - Severability.**

27 This Chapter and the various parts, sections and clauses thereof are declared severable.
28 If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the

1 remainder of this chapter shall not be affected thereby. The City Council of the City of Colton
2 declares that it would have passed this Chapter and each part thereof, regardless of the fact
3 that one or more parts thereof be declared unconstitutional or invalid.

4 **5.24.190 - Cosmetology Establishments providing Incidental Massage services.**

5 A. Every Cosmetology Establishment providing Massages pursuant to this Chapter shall
6 be duly and adequately licensed at all times pursuant to all State and Local Laws, rules
7 and regulations, including but not limited to, Chapter 5.02 of this Code.

8
9 B. Massage services shall be performed only by Licensed Massage Technicians.

10
11 C. Massages shall be provided only in clearly designated, lighted and accessible locations
12 within the Cosmetology Establishment. The provision of Massages, as well as the
13 location in which the all Licensed Massage Technicians operate, shall comply with the
14 Federal, State and Local health, safety and building standards applicable to
15 Cosmetology Establishments, including those statutory and regulatory standards
16 applicable to the operation of Cosmetology Establishments.

17
18 D. Massage services shall be Incidental to the primary cosmetology services of the
19 Cosmetology Establishment. No more than one Licensed Massage Technician shall be
20 permitted to operate in a Cosmetology Establishment for every three cosmetologists
21 operating in the same Establishment at any one time. If less than three cosmetologists
22 are operating in the Establishment at any one time, there shall be no more than one
23 Licensed Massage Technician operating in the same Establishment at that time.

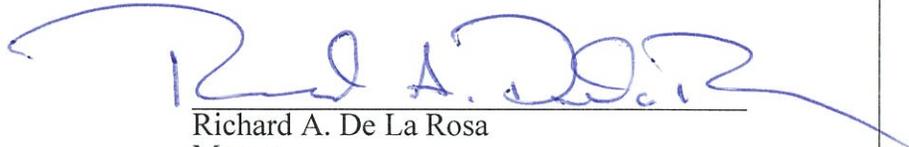
24
25 D. It is unlawful for any Person to own or operate a Cosmetology Establishment in which
26 Licensed Massage Technicians operate if the establishment does not comply with all
27 applicable Federal, State and Local health, safety and building standards, including
28 those statutory and regulatory standards applicable to the operation of Cosmetology
Establishments.”

1 **SECTION 5:** Severability. If any section, subsection, subdivision, paragraph,
2 sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to
3 unconstitutional, such decision shall not affect the validity of the remaining portion of this
4 ordinance or any part thereof. The City Council of the City of Colton hereby declares that it
5 would have passed each section, subsection, subdivision, paragraph, sentence, clause or
6 phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision,
7 paragraph, sentence, clause or phrases be declared unconstitutional.

8 **SECTION 6:** This ordinance shall take force and effect thirty (30) after its
9 adoption.

10 **SECTION 7:** The City Clerk shall certify to the adoption of this Ordinance
11 and cause it, or a summary of it, to be published in a newspaper of general circulation printed
12 and published within the City of Colton in accordance with law.

13
14 **PASSED, APPROVED, AND ADOPTED** this 2nd day of February, 2016.

15
16 
17 Richard A. De La Rosa
18 Mayor

18 ATTEST:

19
20 
21 Carolina R. Padilla
22 City Clerk

22 APPROVED AS TO FORM:

23 
24
25 Best Best & Krieger LLP
26 City Attorney

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF COLTON)

4 CERTIFICATION

5 I, **CAROLINA R. PADILLA**, City Clerk of the City of Colton, California, do hereby
6 certify under penalty of perjury that the foregoing is a full, true and correct copy of
7 **ORDINANCE NO. O-03-16**, and was duly passed, approved, and adopted by the City
8 Council of the City of Colton at its Regular Meeting held on the **2nd day of February,**
9 **2016**, by the following vote to wit:

10
11 AYES: COUNCILMEMBER Toro, Jorin, Navarro, González,
12 Bennett, Suchil and Mayor
DeLaRosa

13 NOES: COUNCILMEMBER None

14 ABSTAIN: COUNCILMEMBER None

15 ABSENT: COUNCILMEMBER None
16

17 **IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official
18 seal of the City of Colton, California, this ____ day of _____, _____.

19
20
21
22 _____
CAROLINA R. PADILLA
23 City Clerk
City of Colton, California

24
25 (SEAL)
26
27
28