



*City of Arts & Innovation*

# City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: FEBRUARY 23, 2016

FROM: RIVERSIDE POLICE DEPARTMENT      WARDS: ALL

SUBJECT: PROPOSED ORDINANCE TO AMEND RIVERSIDE MUNICIPAL CODE CHAPTER 5.52 REGULATING MASSAGE BUSINESS ESTABLISHMENTS

## **ISSUE:**

Adoption of an ordinance to amend Riverside Municipal Code ("RMC") Chapter 5.52 relating to massage establishments.

## **RECOMMENDATIONS:**

That the City Council introduce and adopt the attached Ordinance amending Chapter 5.52 of the Riverside Municipal Code.

## **COMMITTEE RECOMMENDATION:**

The Public Safety Committee met on January 20, 2016, with Committee Chair Perry, Vice Chair Melendrez and Member Burnard present, to consider the adoption of an ordinance to amend Riverside Municipal Code ("RMC") Chapter 5.52 relating to massage establishments to bring the RMC into compliance with State Law. The Committee unanimously voted to recommend the amendment to City Council.

## **BACKGROUND:**

On September 27, 2008, Governor Arnold Schwarzenegger signed California Senate Bill 731 into law establishing the California Massage Therapy Council (CAMTC). Senate Bill 731 limited the regulation of massage establishments by local agencies.

Assembly Bill 1147 was signed into law by Governor Jerry Brown on September 18, 2014, re-authorizing CAMTC and significantly revising the Massage Therapy Act, which effectively restored a significant amount of regulatory authority back to local agencies. AB 1147 went into effect on January 1, 2015, and substantially changed Business and Professions Code sections 460, 4600-4621, and Government Code section 51034.

Assembly Bill 1147 restores broader control over regulating massage establishments to local government so that local agencies can manage massage establishments in the best interest of the individual community. The proposed ordinance will allow the City of Riverside ("City") to ensure that 5.52 RMC is consistent with state law, allowing legitimate therapeutic massage services to flourish while discouraging unlawful sexual activity and human trafficking associated with prostitution.

The substantive amendments to RMC Chapter 5.52 include the following:

1. 5.52.050(A)(7) – The amended section would prohibit business owners from transferring the business to an associate, family member, friend, or other person when there has been a revocation due to criminal activity; this will effectively prevent a person from simply transferring the business to avoid the consequences of violating the RMC or other applicable law (to wit, permitting or conducting illegal sex/other criminal acts at the massage establishment).
2. 5.52.080(C)(5-7) - Additional provisions were added to further define prohibited contact inside a massage business, such as engaging in sexual activity at the massage establishment, using sexually suggestive advertising to draw in customers desiring illegal sexual activity, and performing massages while the certificate or permit is suspended.
3. 5.52.130(C) – The deletion of the appeal exception in this section requires a massage establishment to remain closed after they have been served written notice of the revocation of their massage permit effectively preventing the business from continuing in the prohibited conduct while the appeal is still pending. Previously, the filing of an appeal allowed the business to continue its activity, and if the appellant requested a continuance of the hearing and waived the right to have a hearing within the prescribed time, the business was able to continue operating even longer until the time of the continued appeal hearing. However, more often, the business owner was able to transfer the business to another person prior to the hearing. This will prohibit the businesses from continuing operations while strategically delaying the appeal process.
4. 5.52.140(A) – The length of time within which to file a written appeal with the City Clerk has changed from 30 days to 10 days.
5. 5.52.140(C) – This amendment will ensure that even if an appeal to the revocation is filed, no massage activity will occur until the Public Safety Committee has rendered a decision and massage activity can only resume at that particular business if the ruling is in the appellant's favor.
6. 5.52.140(D) – The amendment would now require the City Clerk to set the appeal to a revocation for the next available Public Safety Committee Meeting, as opposed to requiring the setting of a hearing date within the current statutorily prescribed time of 60 days, to allow for contingencies or situations where the Committee is unable to meet within that prescribed statutory time.
7. 5.52.140(E) – This section was added to clarify that the withdrawal of a previously filed appeal or the surrender of the massage establishment permit will not undo or negate a revocation by the Chief of Police. This amendment also allows greater conformity of the RMC with CAMTC regulations as well as the municipal codes of other cities.
8. 5.52.145 – This added section allows the Chief of Police to deny a massage establishment permit if the Property has had a prior massage permit revocation or if there was prior criminal activity related to massage activity. This will prohibit the “revolving door” of massage establishments of various names to operate the same type of business of

conducting illegal sex acts in the same location to the same customer base who know that location to be a place where illegal sex acts are performed.

**FISCAL IMPACT:**

There is no fiscal impact resulting from the proposed ordinance.

Prepared by:	Sergio G. Diaz, Chief of Police
Approved by:	Alexander T. Nguyen, Assistant City Manager
Approved as to form:	Gary G. Geuss, City Attorney
Certified as to	
Availability of funds:	Brent A. Mason, Finance Director/Treasurer

Concurs with:



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Jim Perry, Chair  
Public Safety Committee

Attachments: Ordinance Amending RMC 5.52