



City of Arts & Innovation

Public Safety Committee Memorandum

TO: PUBLIC SAFETY COMMITTEE MEMBERS DATE: JANUARY 16, 2019
FROM: RIVERSIDE POLICE DEPARTMENT WARDS: 2
**SUBJECT: APPEAL OF DENIAL OF MASSAGE ESTABLISHMENT'S REQUEST FOR
RENEWAL OF PERMIT FOR BUSINESS – RELIEF-N-RELAX**

ISSUE:

Consider the appeal from Xiao M. Zhang, the owner of Relief-N-Relax, located at 2308 University Avenue, Unit No. 104 in regards to the Riverside Police Department's denial to renew the massage establishment's permit for the business.

RECOMMENDATION:

That the Public Safety Committee deny the appeal from Xiao M. Zhang, the owner of Relief-N-Relax, located at 2308 University Avenue, Unit No. 104 and uphold the denial by the Riverside Police Department to renew the massage establishment's permit for the business.

LEGISLATIVE HISTORY:

Riverside Municipal Code § 5.52.070(Q) – Health and Safety Requirements – states:

Records shall be maintained that include the date and time of each massage, the name and address of the patron, the name of the person administering such massage, and the type of massage given. In addition, each massage establishment shall maintain a current list of all massage therapists and massage technicians providing massage services at said massage establishment. Such records shall be made available, upon request, for inspection by the City.

Riverside Municipal Code § 5.52.080(A) – Prohibited Conduct – states:

No massage establishments shall allow persons to practice massage who are not certified under Sections 5.52.090 or 5.52.110 and comply with this chapter.

Riverside Municipal Code § 5.52.090 – Valid State Certificate Required – states:

- A. No person, other than those holding valid state certificates, shall practice massage therapy in a massage establishment in the City of Riverside.
- B. Upon the effective date of this chapter, every person must obtain a valid state certificate to practice massage therapy. If, on the effective date of this chapter, a person is in possession of a Certificate of Registration to provide massage therapy issued by the City of Riverside, that person shall have one year from the effective date of this chapter to obtain a valid state certificate to provide massage therapy, failing to do so, the person must cease any massage therapy in the City of Riverside and comply with the requirements of this chapter.
- C. A valid state certificate can be obtained through the California Massage Therapy Council.

Riverside Municipal Code § 5.52.110 – State Certificate Holder Requirements – states:

- A. Every state certificate holder seeking to practice massage in the City must:
 - 1. Fourteen days prior to providing massage, provide the Chief of Police the following information:
 - a. A copy of a valid certificate issued by the California Massage Therapy Council;
 - b. The name and address of the massage establishment where the massage technician will be employed;
 - c. The following information regarding the certificate holder: full name, including all other names used presently or in the past; date of birth; and present residence address and telephone number.
 - 2. Notify the Chief of Police of any change in any information provided in subdivision (A)(1) of this section at least two weeks prior to the proposed change.
 - 3. Provide massage in compliance with Sections 5.52.070 of this chapter.
 - 4. Provide massage in compliance with Sections 5.52.080 of this chapter.
- B. The City may make reasonable investigations into the information provided pursuant to this section. A state certificate holder may not refuse to permit such lawful inspection of the premises at any time it is occupied or open for business.
- C. In addition to any other provisions in this chapter, state certificate holders shall be responsible for their conduct while on the premises of the massage establishment or providing massage for compensation.
- D. A state certificate holder shall notify the Chief of Police whenever there is a change in information which was required to be submitted in the application. Such notification shall be in writing and made within ten business days of the change.

- E. A state certificate holder shall notify the Chief of Police whenever there is a change in information which was required to be submitted in the application. Such notification shall be in writing and made within ten business days of the change.

DISCUSSION:

After receiving complaints that unlicensed persons were conducting massages at Relief-N-Relax, located at 2308 University Avenue, Unit No. 104, Riverside, the Riverside Police Department Vice unit conducted two separate undercover operations that confirmed Ms. Zhang, in fact, employed persons who were not licensed by the California Massage Therapy Council, and they were performing massages in her business under her supervision. On July 19, 2018, Ms. Zhang was cited for Riverside Municipal Code (RMC) 5.52.080(A), Allowing persons to massage without a license and RMC 5.52.070(Q), Record Keeping. Then on October 9, 2018, she was cited a second time for RMC 5.52.080(A), Allowing persons to massage without a license.

After reviewing the application for renewal of the Massage Establishment Permit that Ms. Zhang completed and signed on September 9, 2018, it was determined that she answered "No" to Question 22: "Have you ever been arrested or given a citation for violating any law related to massage or a similar practice?" She responded "No," despite the fact she did receive a citation on July 19, 2018 for violating RMC 5.52.080(A), Allowing persons to massage without a license and RMC 5.52.070(Q), Record Keeping.

On October 25, 2018, the Riverside Police Department provided her with correspondence referencing a recommendation that the Massage Establishment Permit for the business, Relief-N-Relax, be denied as a result of the two citations and the fact that Ms. Zhang provided deceptive information on the Massage Establishment Permit for the business.

Ms. Zhang exercised her right to appeal the decision and scheduled a hearing with the Deputy Chief of Operations prior to the denial of the Massage Establishment Permit going into effect.

On November 6, 2018, the Deputy Chief of Operations conducted a hearing to determine if Ms. Zhang had any evidence to refute the factual allegations that lead to the proposed denial. After careful review of the information and exhibits Ms. Zhang provided, it was determined that there was no evidence that refuted the alleged conduct, and sufficient grounds existed to uphold the denial of the permit. The attached hearing decision was sent to Ms. Zhang on November 8, 2018.

On November 14, 2018, Ms. Zhang submitted the attached letter of appeal through the City Clerk's Office and it was accepted by the City Clerk's Office the same day. The appeal for denying the renewal of the massage establishment permit for Relief-N-Relax was scheduled for consideration by the Public Safety Committee on December 19, 2018.

The PSC hearing on December 19, 2018, was continued due to illness of a PSC member. The Appellant was present with her attorney. The PSC hearing was continued to January 16, 2019.

and Appellant was given notice.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Sergio Diaz, Chief of Police
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer
Approved by: Lea Deesing, Assistant City Manager
Approved as to form: Gary G. Geuss, City Attorney

Attachment:

1. Appeal Letter
2. Hearing Results
3. Denial of Permit