



City of Arts & Innovation

Public Safety Committee Memorandum

TO: PUBLIC SAFETY COMMITTEE **DATE: JUNE 19, 2019**

FROM: RIVERSIDE POLICE DEPARTMENT **WARDS: ALL**

SUBJECT: PROPOSED ORDINANCE AMENDING CHAPTER 5.52 OF THE RIVERSIDE MUNICIPAL CODE REGULATING MASSAGE BUSINESS ESTABLISHMENTS - DIRECT SUBMITTAL

ISSUE:

Recommend that City Council adopt an Ordinance amending Chapter 5.52 of the Riverside Municipal Code relating to massage business establishments.

RECOMMENDATION:

That the Public Safety Committee recommend that the City Council adopt an Ordinance amending Chapter 5.52 of the Riverside Municipal Code relating to massage business establishments.

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.

On September 18, 2014, Governor Jerry Brown signed Assembly Bill 1147 into law 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.

DISCUSSION:

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 Riverside Municipal Code (RMC) Chapter 5.52 relating to massage business establishments 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. 5.52.020 – This section was amended to help define the following areas:

“Employee” is amended to include any person who offers to render any service, including soliciting, or performing any type of massage.

“Massage” is amended to clarify that massaging the body from the knee down to the toes or from the elbow down to the fingertips does not constitute a massage in this Chapter.

“Massage technician” is also amended to include a Massage Practitioner as defined in Business and Professions Code section 4604.2.

“Service of Notice” was added to state it is governed by Riverside Municipal Code Chapter 1.17.

2. 5.52.030(A)(4) – This section was deleted as it relates to massages where disrobing is not involved and are not administered in a room separate from the primary business activity.
3. 5.52.050 – This section is amended to give discretion to the Chief of Police to refuse issuance of transfer of a massage establishment permit in addition to allow for a suspension of said permit.
4. 5.52.050(A)(7) – This section was amended by removing the definition of a property having a prior revocation of a massage establishment permit and now stating pursuant to any provision set forth in Section 5.52.145 of this Chapter.
5. 5.52.060(A) – This section was amended to also include the owner of the establishment.
6. 5.52.060(A)(2) – This section was amended to clarify that the employee’s original state certificate must be posted in an open and conspicuous location.
7. 5.52.060(A)(10) – This section was added to regulate the hours of operation a massage establishment may be open for business from 8:00 a.m. to 10:00 p.m.
8. 5.52.070 – This section is amended to require not only the business, but the owner, technician and employees to comply with State and local health and safety requirements.
9. 5.52.070(M) – This section was amended to included owners and employees.
10. 5.52.070(N) – This section was amended to included owners and employees.
11. 5.52.090(B) – This section is amended to require all therapists to obtain a valid State certificate prior to performing massage therapy.

- 12.5.52.110(E) – This section was created to establish guidelines that every state certificate holder shall display their original state certificate in an open and conspicuous location at the massage establishment in which they are employed in compliance with State statute.
- 13.5.52.130(A) – The amendment would allow the Chief of Police the ability to also suspend a massage establishment permit which had already been issued.
- 14.5.52.130(B) – This section was amended to list suspension as an alternative form of discipline.
- 15.5.52.130(C) – This section was amended to clarify that once a violation of this Chapter has occurred, the Appellant has ten (10) days to notify the Chief of Police of his/her intention to object to the proposed revocation/suspension. If the massage establishment permit holder decides to appeal the Chief of Police's decision, the massage establishment will be allowed to remain open until a decision is rendered by the Chief of Police at the hearing. If the massage establishment permit is revoked or suspended, the massage establishment shall remain closed until a final determination is made by the Public Safety Committee.
- 16.5.52.130(D)(1-6) – This section was added to define the process for the massage establishment permit holder to dispute the revocation or suspension notice. This section outlines the procedures the massage establishment permit holder needs to follow in appealing the Chief of Police's decision. The section also outlines the procedures for the Chief of Police to file from notification of the hearing to the notification of Chief of Police's finding.
- 17.5.52.140(A) – This section was amended to list suspension as an alternative form of discipline. It also states that if the 10th day lands on a weekend or holiday, the City Manager shall cause the matter to be heard before the Administrative Officer the following weekday.
- 18.5.52.140(C) – This section was amended to list suspension as an alternative form of discipline. It also states that when a decision has been made by the Chief of Police, no massage activity shall occur until the Administrative Hearing Officer has rendered a decision.
- 19.5.52.140(D)-(H) – These sections are amended to set forth the procedures that shall govern the administrative hearing process.
- 20.5.52.145(A) – This section was amended to clarify that a massage establishment permit application may be denied if a prior massage establishment permit, within the last 5 years, had been revoked or suspended, a permit had been revoked or suspended within the last year under this Chapter, or if there was any criminal activity related to massage activity on the property.
- 21.5.52.145(B) – This section was added stating the property owner may be notified, in writing, if a massage establishment permit was denied, revoked or suspended based on if any criminal activity has occurred on the subject property.
- 22.5.52.150(A) – This section was amended to list suspension as an alternative form of

discipline.

FISCAL IMPACT:

There is no fiscal impact associated with the recommended action in this report.

Prepared by: Sergio G. 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. Guess, City Attorney

Attachments:

1. Presentation
2. Proposed Ordinance Amending RMC 5.52
3. Proposed Ordinance Amending RMC 5.52 (redline)