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ORDINANCE NO.

AN ORDINANCE OF THE CITY OF RIVERSIDE, CALIFORNIA,
AMENDING CHAPTER 5.52 OF THE RIVERSIDE MUNICIPAL CODE
REGARDING MASSAGE BUSINESSES.

The City Council of the City of Riverside does ordain as follows:

Section 1: Section 5.52.020 of the Riverside Municipal Code is hereby amended in part as follows:

“Section 5.52.020 Definitions.

For purposes of this Chapter, the following words, items and phrases shall have the meaning given herein:

“Accredited Recognized School” means an “approved school” or “approved massage school” as defined in California Business and Professions Code Section 4600(a).

. . .

“Employee” means any person who renders any service, including offers to, soliciting, or performing any type of massage, with or without compensation, to a massage establishment relating to the day-to-day operation of the massage establishment. This shall include independent contractors and unpaid volunteers.

“Massage” means any method of treating the external parts of the body for remedial, hygienic, relaxation or any other reason or purpose, whether by means of pressure or friction against, or stroking, kneading, tapping, pounding, vibrating, rubbing or other manner of touching external parts of the body with the hands, with or without the aid of any mechanical or electrical apparatus or appliance or with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, ointment or other similar preparations commonly used in this practice. Massage does not include massaging the part of the body from the knee down to the toes or from the elbow down to the fingertips.

. . .

1 “Massage technician” is a person who offers to or solicits to perform a massage for
2 compensation, holds himself or herself out to be a person who performs massage, or who actually
3 performs a massage for compensation. A massage technician includes a Massage Practitioner as
4 defined in Business and Professions Code section 4604.2.

5 ...

6 “Service of Notice” is governed by Riverside Municipal Code Chapter 1.17.

7
8 . . .”

9 Section 2: Section 5.52.030 of the Riverside Municipal Code is hereby amended in part
10 as follows:

11 **“Section 5.52.030 Exceptions.**

12 A. The requirements of this chapter shall have no application and no effect upon and shall
13 not be construed as applying to:

14 ...

15 4. State-licensed hospitals, nursing homes, sanatoriums, or other health care facilities
16 duly licensed by the state of California, and the employees of such facilities while working on the
17 premises of such state-licensed facilities.

18 5. Accredited high schools, junior colleges, and colleges or universities whose coaches
19 and trainers are acting within the scope of their employment.

20 6. Barbers, beauticians, or manicurists who are duly licensed by the state of California
21 pursuant to the Barbering and Cosmetology Act set forth in Business and Professions Code Section
22 7300 et seq., as the same may be amended from time to time, while engaging in practices within the
23 scope of such license, except that this exemption applies solely for the massaging of the neck, face,
24 and/or scalp of the customer or client of said barber or beautician or, in the case of a licensed
25 manicurist, the massaging of the forearms, hands, calves, and/or feet.

26 7. Schools of cosmetology or barbering which comply with the requirements of
27 Business and Professions Code Section 7362 et seq. when instructors are acting within the scope of
28

1 their employment or when students are working as unpaid externs pursuant to the requirements of
2 Business and Professions Code Section 7395.1.

3 8. Any other business or professions exempt by state law.

4 ...”

5 Section 3: Section 5.52.040 of the Riverside Municipal Code is hereby amended in part
6 as follows:

7 **“Section 5.52.040 Massage establishment permit required.**

8 ...

9
10 D. Applicant shall list all previous and current massage establishments in which
11 applicant had or has any ownership interest, in any state, county, or city. Applicant shall inform the
12 Chief of Police, in writing, of any prior, current, or future revocations or suspensions of massage
13 establishment permits, or acquisition of any ownership interest in any massage establishment
14 acquired after the date of their most recent application.

15 E. Each permit issued under this section shall expire one year from the date of
16 issuance.

17 F. An unrevoked permit may be renewed for one year by filing, under penalty of
18 perjury, a written application on forms provided by and submitted to the Chief of Police,
19 accompanied by a non-refundable renewal fee in such amounts established by resolution of the City
20 Council.

21 G. A permit required under this section shall be in addition to any license,
22 permit or fee required under any other chapter of this Code.

23 H. A permit holder shall notify the Chief of Police whenever there is a change
24 in information that was required to be submitted in the application. Such notification shall be in
25 writing and made within ten business days of the change.

26 I. The Chief of Police shall complete an investigation of the qualifications and
27 moral character of the applicant and either grant or deny the permit within 90 days after the
28 submission of the completed application; provided, however, if good cause exists, the Chief of

1 Police may extend the period of investigation for an additional 30 days, provided the applicant is
2 mailed notification or verbally notified that the investigation has not been completed.”

3 Section 4: Section 5.52.050 of the Riverside Municipal Code is hereby amended in part
4 as follows:

5 **“Section 5.52.050 Refusal to issue massage establishment permit.**

6 A. The Chief of Police may not issue or allow a transfer of a massage establishment
7 permit to an applicant under any of the following conditions.

8 ...

9 Pursuant to any provision set forth in Section 5.52.145 of this Chapter.”

10
11 Section 5: Section 5.52.060 of the Riverside Municipal Code is hereby amended in part
12 as follows:

13 **“Section 5.52.060 Requirements for massage establishments.**

14 A. Every massage establishment and owner shall:

15 ...

16 2. Display the original state certificate for all massage technicians employed at the
17 massage establishment in an open and conspicuous location.

18 ...

19 10. Only operate during the business hours from 8:00 a.m. to 10:00 p.m.

20 ...”

21
22 Section 6: Section 5.52.070 of the Riverside Municipal Code is hereby amended in part
23 as follows:

24 **“Section 5.52.070 Health and safety requirements.**

25 No massage establishment, owner, massage technician, or employee shall engage in, conduct
26 or carry on, or permit to be engaged in, conducted or carried on, the operation of a massage
27 establishment unless each and all of the following requirements are met.

28 ...

1 M. All owners, massage technicians, and employees shall be clean and wear clean and
2 sanitary outer garments at all times. All outer garments shall be of a fully opaque, nontransparent
3 material and provide complete covering from at least the mid-thigh to two inches below the
4 collarbone. The midriff may not be exposed.

5 N. All owners, massage technicians, and employees shall thoroughly wash their hands
6 with soap and water or any equally effective cleansing agent immediately before providing
7 massage to a patron. Massage shall not be provided upon a surface of the skin or scalp of a patron
8 where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is
9 present.

10 ...”

11 Section 7: Section 5.52.090 of the Riverside Municipal Code is hereby amended in part
12 as follows:

13 **“Section 5.52.090 Valid State Certificate required.**

14 A. No person, other than those holding valid state certificates, shall practice massage
15 therapy in a massage establishment in the City of Riverside.

16 B. Upon the effective date of this chapter, every person must obtain a valid state
17 certificate to practice massage therapy.

18 ...”

19 Section 8: Section 5.52.110 of the Riverside Municipal Code is hereby amended in part
20 as follows:

21 **“Section 5.52.110 State certificate holder requirements.**

22 A. Every state certificate holder seeking to practice massage in the City must:

23 ...

24 E. Every state certificate holder shall display their original state certificate in an open
25 and conspicuous location at the massage establishment in which they are employed. A state
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1 certificate holder shall have his or her identification certificate in his or her possession while
2 providing massage services.

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

6 Section 9: Section 5.52.130 of the Riverside Municipal Code is hereby amended in part
7 as follows:

8 **“Section 5.52.130 Revocation.**

9 A. Subject to the procedures set forth in this section, the Chief of Police may revoke or
10 suspend a massage establishment permit issued pursuant to this chapter whenever any of the
11 following has occurred:

12 ...

13 B. If, in the discretion of the Chief of Police, the violation is capable of correction, then
14 prior to revocation or suspension, a written notice shall be given to the permittee or certificate holder
15 of the violation(s) involved to allow a period of time to correct the violation(s), which period shall
16 not exceed five business days, at the end of which period, the police department shall conduct an
17 inspection to determine whether the violation(s) has been corrected. If the Chief of Police determines
18 that the violation is not capable of correction or finds that the violation(s) continues without
19 correction, then the Chief of Police may issue a notice of revocation or suspension. Examples of a
20 violation that will be determined by the Chief of Police to be not capable of correction include but
21 are not limited to substantial evidence of prostitution activity on the massage establishment premises
22 or an immediate threat to health, safety or welfare.

23 C. Any massage establishment permit may be revoked or suspended by the Chief of Police
24 upon determination that the holder of the permit has directly or indirectly allowed or has violated
25 any regulation set forth in this Chapter. To revoke or suspend a massage establishment permit, the
26 Chief of Police shall serve upon the holder thereof, either by personal service or by United States
27 Mail sent to the last known address, a written notice that said permit shall be revoked or suspended
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1 on the tenth (10) day from the date of said notice. If, however, the permit holder files a timely
2 request for a hearing as set forth below, the revocation or suspension of the permit shall be stayed
3 pending a determination by the Chief of Police at the hearing.

4 D. Request for Hearing Procedures

5 (1) Upon personal service or mailing of said revocation or suspension notice, the
6 massage establishment permit holder shall have ten (10) calendar days to file a written appeal to the
7 Chief of Police of the intent to contest the proposed permit revocation or suspension. If the tenth
8 (10) day is a weekend or holiday, the following weekday will be the tenth (10) day. The written
9 appeal shall state the basis for the appeal.

10 (2) If a timely appeal is made to the Chief of Police, the Chief of Police shall fix
11 the time and place of the hearing to be held no less than five (5) business days and not more than
12 fifteen (15) business days following the notice of appeal of the proposed permit revocation or
13 suspension.

14 (3) The appellant shall be given notice of such hearing at least five (5) calendar
15 days prior to the hearing. Notice may be given by personal service, mail, email or telephone.

16 (4) At the time and place fixed in the hearing notice, the Chief of Police shall hear
17 testimony of all competent persons or any other evidence regarding the massage establishment
18 permit revocation or suspension.

19 (5) If, from the evidence introduced at the hearing, the Chief of Police finds
20 grounds exist for revocation or suspension of the permit, the permit shall be revoked or suspended.
21 If, following the hearing, the Chief of Police determines no grounds exist for revocation or
22 suspension of the permit, then the Chief of Police shall grant the appeal and no revocation or
23 suspension shall be applied. The Chief of Police shall notify the appellant of the decision, in writing,
24 within ten (10) calendar days following the close of the hearing.

25 (6) An appeal of a revoked or suspended massage establishment permit may be
26 made pursuant to section 5.52.140 of this Chapter.

27 E. A revoked permit shall be immediately surrendered to the Chief of Police.”
28

1 Section 10: Section 5.52.140 of the Riverside Municipal Code is hereby amended in part
2 as follows:

3 **“Section 5.52.140 Appeal.**

4 A. An appeal of the Chief of Police's decision to deny, revoke, or suspend a massage
5 establishment permit must be filed with the City Clerk, in writing, within ten calendar days after
6 denial of the application or revocation or suspension of the massage establishment permit has been
7 served. The appeal shall clearly state the applicable basis for the appeal. The City Manager shall
8 cause the matter to be set for a hearing before an Administrative Hearing Officer to hear such
9 matters.

10 B. The scope of the appeal hearing pursuant to this section shall be limited to those
11 issues raised by appellant in the written appeal, as submitted pursuant to subdivision A. above.

12 C. Should an appeal of a denial of a massage establishment permit, or revocation or
13 suspension of a massage establishment permit be filed, the denial, revocation, or suspension decision
14 made by the Chief of Police will remain in effect and no massage activity may occur on the property
15 until such time as the Administrative Hearing Officer has rendered a decision.

16 D. Notice of the date of hearing shall be given in writing. The date of the hearing shall
17 be no sooner than ten (10) days from the date when the notice of hearing is served on the appellant.

18 E. At the time fixed in the notice of hearing, the Administrative Hearing Officer shall
19 review all relevant evidence and hear the testimony of all competent persons desiring to testify
20 respecting the incident or alleged violation.

21 F. The general evidentiary procedures for all administrative hearings shall be governed
22 by Chapter 1.17.130. However, evidence shall include, but is not limited to, police reports, criminal
23 citations, photographs, videos, audio recordings, and the like.

24 G. At the conclusion of the hearing, the Administrative Hearing Officer shall determine
25 whether the appellant violated Chapter 5.52 of the Riverside Municipal Code or any other relevant
26 law, statute, or code. If the Hearing Officer concludes the appellant was in violation of the law, the
27 Administrative Hearing Officer shall revoke or suspend the massage establishment permit.
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1 H. The decision of the Administrative Hearing Officer on the determination of a
2 violation of Riverside Municipal Code or other relevant law is final. Any appeal of the
3 Administrative Hearing Officer’s decision shall be governed by California Code of Civil Procedure
4 section 1094.6 or such section as may be amended from time to time.

5 I. Any withdrawal of an appeal or the surrender of the permit will be deemed a
6 revocation of that permit.”

7 Section 11: Section 5.52.145 of the Riverside Municipal Code is hereby amended in part
8 as follows:

9 **“Section 5.52.145 Massage establishment land use.**

10 A. The Chief of Police may deny any massage establishment permit application if any
11 of the following conditions are met:

12 1. If, within the past five (5) years, the property had a massage establishment
13 permit revoked or suspended under this Chapter or there was criminal activity relating to massage
14 activity, including sex offenses as defined in this Chapter, on the property; or

15 2. A massage establishment permit has been revoked or suspended with the
16 past year.

17 B. The property owner may be notified after any denial, revocation, or suspension of a
18 massage establishment permit, or if any criminal activity or alleged criminal activity which has
19 occurred on the subject property, in writing, as soon as practical and determined by the Chief of
20 Police.

21 C. An appeal of a denial of a massage establishment permit under this section may be
22 made pursuant to the appeal provision of this Chapter.”

23 Section 12: Section 5.52.150 of the Riverside Municipal Code is hereby amended in part
24 as follows:

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26
27 **“Section 5.52.150 Penalty.**

1 A. Violation of this chapter is an infraction or misdemeanor. Revocation or
2 suspension of a permit shall not be a defense against prosecution.

3 ...”

4 Section 13: The City Council has reviewed the matter and, based upon the facts and
5 information contained in the staff reports, administrative record, and written and oral testimony,
6 hereby finds that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2),
7 15060(c)(3) and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations, Title
8 14, Chapter 3, in that it will not result in a direct or reasonably foreseeable indirect physical change
9 in the environment nor have a significant impact on the environment.

10 Section 14: The City Clerk shall certify to the adoption of this ordinance and cause
11 publication once in a newspaper of general circulation in accordance with Section 414 of the Charter
12 of the City of Riverside. This ordinance shall become effective on the 30th day after the date of its
13 adoption.

14 ADOPTED by the City Council this _____ day of _____, 2019.

15
16 _____
17 WILLIAM R. BAILEY, III
18 Mayor of the City of Riverside

19 Attest:

20 _____
21 COLLEEN J. NICOL
22 City Clerk of the City of Riverside

23 //

24 //

1 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
2 foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the
3 _____ day of _____, 2019, and that thereafter the said ordinance was duly and
4 regularly adopted at a meeting of the City Council on the _____ day of _____, 2019,
5 by the following vote, to wit:

6 Ayes:

7 Noes:

8 Absent:

9 Abstain:

10 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
11 City of Riverside, California, this _____ day of _____, 2019.
12

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14 _____
15 City Clerk of the City of Riverside
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