

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Luke Watson, Director of Community Development

DATE: June 25, 2019

SUBJECT: Approve an Amendment to Chapter 5.22 of the Temecula Municipal Code, Massage and Massage Establishments (At the Request of Subcommittee Members Council Members Edwards and Rahn)

PREPARED BY: Dale West, Associate Planner II

RECOMMENDATION: That the City Council:

1. Introduce and read by title only an ordinance entitled:

ORDINANCE NO. 19-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF TEMECULA AMENDING CHAPTER 5.22, MASSAGE
AND MASSAGE ESTABLISHMENTS, OF THE TEMECULA
MUNICIPAL CODE AND MAKING A FINDING OF
EXEMPTION UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

2. Adopt a resolution entitled:

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF TEMECULA ESTABLISHING THE SCHEDULE OF
ADMINISTRATIVE CITATION FINES PURSUANT TO
TEMECULA MUNICIPAL CODE SECTION 1.21.060 FOR
VIOLATIONS OF CHAPTER 5.22 PERTAINING TO
MASSAGE ESTABLISHMENTS**

SUMMARY OF

ORDINANCE: An amendment to Chapter 5.22 updating massage establishment requirements to be consistent with State law, and imposing reasonable standards on the operation of the massage establishment, as allowed by Government Code §§ 37100, 51030. et seq., and Business and Professions Code §§ 460, 16000, 4600 through 4621.

BACKGROUND: The California State Legislature has implemented uniform statewide regulations pertaining to individuals who are certified by the California Massage Therapy Council (CAMTC), now codified in Chapter 10.5 of Division 2 of the California Business and Professions Code at Section 4600, et seq. (the “Massage Therapy Act”), which created a statewide system for issuing certificates to massage therapists and massage practitioners; the CAMTC does not, however, regulate massage establishments.

The City is authorized to regulate massage establishments pursuant to the State Constitution and provisions of Government Code §§ 37100, 51030, et seq., and Business and Professions Code §§ 460, 16000, 4600 through 4621, which provides certain minimum standards for the operation of massage establishments, their management of employees, massage therapists, and massage practitioners.

Additional local regulation is also necessary to prevent adverse secondary effects in the community such as blight, disease, litter, the deterioration of neighborhoods and commercial districts, and other secondary effects. Reasonable standards for issuance of permits and restrictions on massage operations will serve to reduce adverse secondary effects, the risk of illegal activity, and would thereby benefit the public health. In addition, local regulations can promote the ethical practice of massage therapy as an important healing art, while preventing and discouraging the misuse of massage therapy as an opportunity for illicit and other unlawful activity.

The Temecula Municipal Code Chapter 5.22 establishes the requirements for massage establishments in the City of Temecula. It requires that all establishments which provide massage to obtain a City permit; however, the current massage ordinance needs updating to be consistent with state law and in order to effectively regulate massage establishments. This Chapter provides certain minimum standards for the operation of massage establishments, their managing employees, and massage therapists and massage practitioners.

ANALYSIS: The proposed ordinance updates the existing ordinance and provides more detailed requirements for the operation of massage establishments, and is summarized as follows:

- Distinguishes between massage only establishments and establishments that offer massage along with other non-massage services (e.g., Salon/Day Spa).
- Limits or caps the number of massage only establishments to a maximum of 1 per 10,000 persons.
- The maximum number of massage establishment do not apply to businesses where massage services are ancillary to other uses on site and where massage services are less than 50% of the gross floor area of the business.
- Existing legally operating massage establishments are allowed to continue to operate and renew their permit, even if the number of massage establishments exceed the maximum number.
- New massage only establishments may be denied if the existing number of massage only establishments equal or exceed the maximum number.
- If a massage establishment permit is denied or revoked, the applicant, owner and operator may not reapply for 12 months.

- Establishes a three strikes rule for revocations and denials.
- Establishes provisions for the immediate revocation of a permit for serious violations

Staff coordinated with the Temecula Code Enforcement Division, the Temecula Police Department, and California Massage Therapy Council to develop operational standards that are appropriate to protect the health, safety and welfare of the citizens of the City of Temecula and further the legitimate business interest that provides benefits to its patrons.

The Public Safety Ad Hoc Subcommittee (Edwards/Rahn) discussed the framework of the proposed ordinance and recommended that the City Council consider and approve the ordinance as presented by staff. Additionally, the Subcommittee recommended that the Administrative Citation for violations of Sections 5.22.040(A) and 5.22.080 of the Massage Establishment Ordinance be increased to \$1,000 per violation.

ENVIRONMENTAL

FINDINGS: Staff has determined that the proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility the proposed ordinance would have a significant impact on the environment pursuant to State CEQA Guideline Section 15061(b)(3). More specifically, the proposed ordinance amends the City's massage ordinance so that it is consistent with State law requirements, and regulates the operation of massage establishments. The ordinance does not alter the allowed uses in the City and does not result in a significant increase in the intensity or density of any land use above what is currently allowed.

FISCAL IMPACT: The proposed ordinance requires all massage establishments to obtain a permit to operate a massage establishment within the City. Currently the City fees are \$681 for new Massage Establishment permits and \$276 for existing Massage Establishment permit renewals. The current maximum Administrative Citation penalty is \$250. The proposed maximum Administrative Citation penalty is \$1,000.

ATTACHMENTS:

1. Ordinance
2. Resolution