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1 of home rule, and as provided through the police powers enumerated in the State
2 Constitution, the City may enact laws related to municipal affairs, including adopting
3 moratoria related to land uses and other activities that occur or may occur within the City's
4 jurisdiction, and is not reliant solely on the authority of Government Code Section 65858.

5 C. In adopting the Moratorium, the City Council made the following
6 findings:

7 1. In 2008, Senate Bill 731 ("SB 731") was adopted by the
8 California Legislature, and became effective on January 1, 2009, enacting Business and
9 Professions Code §4600 *et seq.*, preempting many local controls relating to massage
10 therapy and massage establishments, and providing for the certification and oversight of
11 massage practitioners and massage therapists by a non-profit entity named the California
12 Massage Therapy Council ("CAMTC"); and

13 2. In 2011 Assembly Bill 619, and in 2012 Senate Bill 1238,
14 amended various provisions of Business and Professions Code § 4600 *et seq.*, further
15 limiting the City's ability to regulate massage establishments; and

16 3. These state laws had the unintended consequence of resulting
17 in a proliferation of massage establishments throughout California, many of which were or
18 are illicit establishments believed to be fronts for prostitution and or human sex trafficking;
19 and

20 4. City staff, including the Police Department, the Enforcement
21 Services Division of the Community Development Department, and the Business Tax
22 Division of the Finance Department have received complaints and continue to receive
23 complaints of suspected illicit activity occurring at massage establishments; and

24 5. A number of local massage establishments are advertised or
25 reviewed online in the adult entertainment section of rubmaps.com, backpage.com, and
26 mpreviews.com, strongly suggesting illicit activity; and

1 6. Over the past several years, the Culver City Police Department
2 has investigated several local massage establishments and made arrests for prostitution,
3 and City enforcement efforts were able to effect the closure of two massage
4 establishments where prostitution was occurring; therefore, massage establishments
5 require a higher level of scrutiny and enforcement than other businesses to ensure
6 compliance with local and state laws; and

7 7. The presence of illicit massage establishments changes the
8 character of neighborhoods, causes blight, and impacts the local economy, as legitimate
9 businesses do not want to locate next door to such illegal uses; and

10 8. Efforts to investigate illegal massage businesses take away
11 from other law enforcement duties and are a drain on City services in a time of limited
12 budgets and resources; and

13 9. Illicit massage establishments threaten the public health, safety
14 and welfare in that they operate as fronts for prostitution and potentially human trafficking
15 operations; and

16 10. Effective January 1, 2015, the Governor signed Assembly Bill
17 1147, which returns to local governments the authority to more strictly regulate massage
18 establishments, authorizing cities and counties to enforce their zoning and land use
19 requirements on massage establishments, even if the same requirements do not apply to
20 other professional services providers, and further gives local governments greater authority
21 to establish reasonable regulations to manage massage establishments in the best interest
22 of the individual community; and

23 11. With the passage of AB 1147, certain provisions of the current
24 Culver City massage ordinance, found at Chapter 11.07 of the Culver City Municipal Code
25 ("CCMC"), may conflict with the new state law. As a result of the January 1, 2015 effective
26 date of AB 1147, it is urgent that the City undertake a review of its current massage
27 regulations in order to determine how such regulations may be revised in order to be
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1 consistent with state law, while still providing comprehensive regulations for the
2 establishment, use and operation of businesses offering massage services in the City, so
3 that the public health, safety and welfare remain protected; and

4 12. City staff needs time to study this issue and to prepare and
5 present recommended regulations of these massage establishments to the City Council.

6 D. On May 11, 2015, consistent with the provisions of Government Code
7 Section 65858 (d), the City Council, by Resolution No. 2015-R025, approved and issued a
8 report setting forth actions and measures taken to alleviate conditions which led to the
9 adoption of the Moratorium, which included, but were not limited, the City's continuing
10 efforts to:

11 1. Analyze state law and the City's current ordinance,
12 2. Discuss possible revisions to the CCMC and review processes
13 related to massage establishments in other nearby cities.

14 3. Analyze the materials issued by the League of California Cities
15 on implementing the new state law and compare those recommendations with certain
16 information released by the California Massage Therapy Council, to ascertain possible
17 conflicts between the positions of the two entities.

18 4. Study possible revisions to the CCMC, Title 17, Zoning, which
19 would appropriately balance the rights of existing massage establishment operators and
20 future applicants who wish to operate massage establishments within the City, with the
21 preservation of the health, safety and welfare of the community.

22 E. On May 26, 2015, the City Council adopted Ordinance No. 2015-002,
23 which extended the Moratorium an additional ten months and 15 days from the initial 45-
24 day period through April 11, 2016, as permitted by Government Code Section 65858 (a).

25 F. On February 22, 2016, consistent with the provisions of Government
26 Code Section 65858 (d), the City Council, by Resolution No. 2016-R016, which is hereby
27 incorporated by this reference, approved and issued a report setting forth actions and
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1 measures taken to alleviate conditions which led to the adoption of the Moratorium (the
2 "Report"), which included, but were not limited, the City's continuing efforts to:

3 1. Review and analyze numerous massage establishment
4 ordinances and regulations adopted and in the process of being adopted by other
5 California cities to comply with the 2015 state law. There are many different types of
6 regulations, and staff is in the process of vetting various provisions to determine what is
7 appropriate for Culver City.

8 2. Continue to discuss the potential revisions to the CCMC and to
9 review processes related to massage establishments in other nearby cities. Such review
10 has included and continues to include discussion with other cities' staff and attorneys, as
11 well as consultation with technical experts.

12 3. Study possible revisions to the CCMC, Title 17, Zoning, which
13 would appropriately balance the rights of existing massage establishment operators and
14 future applicants who wish to operate massage establishments within the City, with the
15 preservation of the health, safety and welfare of the community. The City's review includes
16 the analysis of other cities requiring a regulatory permit, a Conditional Use Permit (CUP) or
17 an administrative use permit (AUP) to operate a massage establishment, and whether
18 massage establishments are limited to certain zones in the city.

19 G. By its own terms, the Moratorium shall expire and be of no further
20 force and effect on April 11, 2016, unless extended by four-fifths vote of the City Council.

21 H. On March 14, 2016, the City Council held a duly noticed public hearing
22 to consider extending the Moratorium for an additional one year period through and
23 including April 10, 2017.

24 I. The City Council considered all of the written and oral testimony
25 offered concerning whether to extend the Moratorium for an additional period of time as
26 noted in Section 1, Paragraph H above.

1 J. The extension of the Moratorium is necessary in order to preserve the
2 quality of life and protect the health, safety and welfare of the City.

3 K. The Moratorium should be extended immediately by adoption of this
4 urgency ordinance, to make certain permits for the operation of massage establishments
5 are issued only under adequate regulations. Extension of the Moratorium will allow the City
6 sufficient time to conclude the preparation of updated and comprehensive regulations for
7 such businesses. The expiration of the Moratorium would create a serious threat to the
8 orderly and effective implementation of any amendments to the CCMC or other related
9 regulations which may be adopted by the City Council as a result of studying this issue, in
10 that the use of land for massage establishments may be in conflict with or frustrate the
11 possible updates and revisions to the CCMC and other regulations, and current regulations
12 do not provide adequate protections for businesses and residences in proximity to massage
13 businesses.

14 L. The facts constituting such urgency are set forth in Section 1,
15 Paragraphs A-K, inclusive, of this Ordinance.

16 M. The City Council directs that all studies be pursued as expeditiously as
17 practicable.

18 N. The Moratorium is a matter of City-wide importance and the provisions
19 set forth herein shall apply equally to any and all existing operators and future applicants.

20 O. The findings set forth in this Section 1 are true and correct and are
21 adopted as the City Council's findings.

22 **SECTION 2. EXTENSION OF MORATORIUM.**

23 Based on the findings set forth in Section 1, the Moratorium, established by
24 Ordinance 2015-001 and extended by Ordinance 2015-002, is hereby extended for an
25 additional one year period. The Moratorium was adopted on April 13, 2015, extended on
26 May 26, 2015, and set to expire on April 11, 2016. Accordingly, by this extension the
27 Moratorium is further extended until midnight April 10, 2017, unless sooner terminated by
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1 the City Council. Therefore, from April 11, 2016, through and including April 10, 2017,
2 subject to the terms and provisions contained herein, no application for a permit, license
3 or entitlement shall be accepted, no consideration of any application for a permit, license
4 or entitlement shall be given, and no permit license or entitlement shall be approved or
5 issued for any new massage establishment or the location or relocation of any existing
6 massage establishment. In addition, no existing massage establishment may
7 expand, whether by means of additional space, construction of a new facility, or
8 by reconfiguration, in order to allow the City time to thoroughly review, study and revise
9 the City's laws, rules, procedures and fees related to massage establishments, which will
10 enable the City to adequately and appropriately balance the rights of existing operators
11 and future applicants who wish to operate in the City with the preservation of the health,
12 safety and welfare of the City and the surrounding community. For the purposes of this
13 moratorium, "massage establishment" shall have the same meaning as "massage
14 business" in CCMC Chapter 11.07.

15 **SECTION 3. URGENCY MEASURE.**

16 Based on the findings set forth in Section 1, the City Council finds and
17 declares there is a current and immediate threat to the public health, safety and welfare of
18 the community and upon that basis has determined that an urgency ordinance pursuant to
19 the provisions of Government Code §65858 and Culver City Charter Section 614 is
20 warranted, and shall take effect immediately upon adoption by a four-fifths vote of the City
21 Council.

22 **SECTION 4. CEQA.**

23 The City Council finds that this Ordinance is not subject to the
24 California Environmental Quality Act ("CEQA") pursuant to CEQA guidelines,
25 California Code of Regulations, Title 14, Chapter 3, §15060(c)(2) [the activity will
26 not result in a direct or reasonably foreseeable indirect physical change in the
27 environment] and §15060(c)(3) [the activity is not a project as defined in §15378]
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1 because it has no potential for resulting in physical change to the environment,
2 directly or indirectly; rather it prevents changes to the environment pending the
3 completion of the contemplated Municipal Code review.

4 **SECTION 5. EFFECTIVE DATE.**

5 Pursuant to Section 614 of the City Charter, this Ordinance shall be
6 introduced and adopted at one and the same meeting and shall become effective
7 immediately on the date of that adoption as noted below.

8 **SECTION 6: SEVERABILITY.**

9 The City Council hereby declares that, if any provision, section, subsection,
10 paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid or
11 unconstitutional by any final action in a court of competent jurisdiction or by reason or any
12 preemptive legislation, then the City Council would have independently adopted the
13 remaining provisions, sections, subsections, paragraphs, sentences, phrases, or words of
14 this Ordinance.

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ATTEST:

APPROVED AS TO FORM:

APPROVED AS TO FORM:



CAROL A. SCHWAB
City Attorney

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