

MEETING DATE: May 11, 2015

AGENDA ITEM : Adoption of a Resolution Approving and Issuing a Report on City Actions Taken in Relation to Interim Ordinance No. 2015-001, Establishing A Temporary Moratorium on the Issuance of any New Permit, License, Approval or Entitlement Pertaining to New Massage Establishments or the Location or Relocation of Existing Massage Establishments within the City and Declaring the Urgency Thereof.

ATTACHMENTS

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1. Resolution with Exhibit A	1-4
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1 RESOLUTION NO. 2015-_____

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY
4 OF CULVER CITY, CALIFORNIA, APPROVING AND
5 ISSUING A REPORT ON CITY ACTIONS TAKEN IN
6 RELATION TO INTERIM ORDINANCE NO. 2015-001,
7 ESTABLISHING A TEMPORARY MORATORIUM ON THE
8 ISSUANCE OF ANY NEW PERMIT, LICENSE, APPROVAL
9 OR ENTITLEMENT PERTAINING TO NEW MASSAGE
10 ESTABLISHMENTS OR THE LOCATION OR
11 RELOCATION OF EXISTING MASSAGE
12 ESTABLISHMENTS WITHIN THE CITY AND DECLARING
13 THE URGENCY THEREOF.

14 WHEREAS, on April 13, 2015, the City Council adopted Interim
15 Ordinance No. 2015-001 (the "Ordinance") establishing a 45-day temporary moratorium
16 on the issuance of any new permit, license, approval or entitlement pertaining to new
17 massage establishments, or the location or relocation of existing massage
18 establishments within the city, and declaring the urgency thereof; and

19 WHEREAS, the City Council, adopted the Ordinance pursuant to Section
20 614 of the City Charter and Section 65858 of the California Government Code, in order
21 to allow the City time to thoroughly review the new state law and its implications, and
22 study and revise the City's laws, rules, procedures and fees related to massage
23 establishments, which will enable the City to adequately and appropriately balance the
24 rights of balance the rights of existing massage establishment operators and future
25 applicants who wish to operate massage establishments within the City with the
26 preservation of the health, safety and welfare of the community; and

27 WHEREAS, Government Code Section 65858 (d) requires the City
28 Council, 10 days prior to the expiration of the Ordinance or any extension, to issue a
written report describing the measures taken to alleviate the condition which led to the
adoption of the Ordinance, and such report will help keep the existing massage

1 establishment operators, future applicants who wish to operate a massage
2 establishment in the City, and the community well-informed on this matter.

3 NOW, THEREFORE, the City Council of the City of Culver City, DOES
4 HEREBY RESOLVE as follows:

5 The City Council approves and issues a "Report on Actions and Measures Taken
6 to Alleviate Conditions Which Led to The Adoption of Interim Ordinance No. 2015-001
7 Establishing a Temporary Moratorium on the Issuance of any New Permit, License,
8 Approval or Entitlement Pertaining to New Massage Establishments or the Location or
9 Relocation of Existing Massage Establishments within The City, and Declaring the
10 Urgency Thereof," which Report is attached hereto as Exhibit "A" and incorporated
11 herein by this reference.

12
13 APPROVED AND ADOPTED this _____ day of _____ 2015.

14
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16 _____
17 MEHAUL O'LEARY, Mayor
City of Culver City, California

18 ATTEST:

19 APPROVED AS TO FORM:

20 _____
21 MARTIN R. COLE, City Clerk

22 _____
23 CAROL SCHWAB, City Attorney

EXHIBIT "A" TO RESOLUTION NO. 2015-R

REPORT OF THE CITY COUNCIL
OF THE CITY OF CULVER CITY

**REPORT ON ACTIONS AND MEASURES TAKEN TO ALLEVIATE
CONDITIONS WHICH LED TO THE ADOPTION OF INTERIM
ORDINANCE NO. 2015-001 ESTABLISHING A TEMPORARY
MORATORIUM ON THE ISSUANCE OF ANY NEW PERMIT, LICENSE,
APPROVAL OR ENTITLEMENT PERTAINING TO NEW MASSAGE
ESTABLISHMENTS OR THE LOCATION OR RELOCATION OF
EXISTING MASSAGE ESTABLISHMENTS WITHIN THE CITY, AND
DECLARING THE URGENCY THEREOF**

On April 13, 2015, the City Council of the City of Culver City adopted Interim Ordinance No. 2015-001 (the "Ordinance"), establishing a 45-day temporary moratorium on the issuance of any new permit, license, approval or entitlement pertaining to new massage establishments or the location or relocation of existing massage establishments within the city, and declaring the urgency thereof. The Ordinance was adopted pursuant to Section 614 of the City Charter and Section 65858 of the California Government Code, in order to allow the City time to thoroughly review the new state law and its implications, and study and revise the City's laws, rules, procedures and fees related to massage establishments. The Ordinance will expire by its own terms on May 27, 2015. The City is reviewing whether there is a need to extend the Ordinance, prior to its expiration, in order to protect the public health, safety and welfare. The City Council will consider such extension at its May 26, 2015 meeting.

Since the adoption of the Ordinance, the City has continued its work to analyze state law and the City's current ordinance. City staff from the Planning Division, Code Enforcement Services, the Police Department and City Attorney's office met to discuss possible revisions to the City's Code and to review processes related to massage establishments in other nearby cities. Staff is also analyzing the materials issued by the League of California Cities on implementing the new state law and comparing those recommendations with certain information released by the California Massage Therapy Council, to ascertain possible conflicts between the positions of the two entities.

The City also continues to study possible revisions to the Culver City Municipal Code, Title 17, Zoning, which would appropriately balance the rights of existing massage establishment operators and future applicants

who wish to operate massage establishments within the City, with the preservation of the health, safety and welfare of the community. The study and review are not yet complete. Once completed, the draft land use amendments to the Zoning Code will be required to go through a review process, including consideration by the Planning Commission with a recommendation to the City Council.

This Report is issued in accordance with Government Code § 65858(d), which requires the City Council, 10 days prior to the expiration of the Ordinance or any extension, to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance. In addition, issuance of this Report will help keep the existing massage establishments, future applicants who wish to operate in the City, and the community informed regarding the progress the City has made over the course of the last few weeks to address the concerns cited by the City Council in adopting Interim Ordinance No. 2015-001.

APPROVED AND ISSUED:

DATED: _____

Mehaul O'Leary, Mayor
City of Culver City, California

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

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

8 G. A number of local massage establishments are advertised or reviewed
9 online in the adult entertainment section of rubmaps.com, backpage.com, and
10 mpreviews.com, strongly suggesting illicit activity; and

11 H. Over the past several years, the Culver City Police Department has
12 investigated several local massage establishments and made arrests for prostitution, and
13 City enforcement efforts were able to effect the closure of two massage establishments
14 where prostitution was occurring; therefore, massage establishments require a higher level
15 of scrutiny and enforcement than other businesses to ensure compliance with local and
16 state laws; and

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

20 J. Efforts to investigate illegal massage businesses take away from
21 other law enforcement duties and are a drain on City services in an era of limited budgets
22 and resources; and

23 K. Illicit massage establishments threaten the public health, safety and
24 welfare in that they operate as fronts for prostitution and potentially human trafficking
25 operations; and

26 L. Effective January 1, 2015, the Governor signed Assembly Bill 1147,
27 which returns to local governments the authority to more strictly regulate massage
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1 establishments, authorizing cities and counties to enforce their zoning and land use
2 requirements on massage establishments, even if the same requirements do not apply to
3 other professional services providers, and further gives local governments greater authority
4 to establish reasonable regulations to manage massage establishments in the best interest
5 of the individual community; and

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

14 N. City staff needs time to study this issue and to prepare and present
15 recommended regulations of these massage establishments to the City Council.

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

18 **SECTION 2. MORATORIUM.**

19 Based on the findings set forth in Section 1, the City Council hereby
20 establishes a 45-day moratorium from the date of April 13, 2015 through and including
21 May 27, 2015, during which period no application for a permit, license or entitlement shall
22 be accepted, no consideration of any application for a permit, license or entitlement shall
23 be given, and no permit license or entitlement shall be approved or issued for any new
24 massage establishment or the location or relocation of any existing massage
25 establishment. In addition, no existing massage establishment may expand,
26 whether by means of additional space, construction of a new facility, or by
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1 reconfiguration. For the purposes of this moratorium, "massage establishment" shall
2 have the same meaning as "massage business" in CCMC Chapter 11.07.

3 **SECTION 3. URGENCY MEASURE.**

4 Based on the findings set forth in Section 1, the City Council finds and
5 declares there is a current and immediate threat to the public health, safety and welfare of
6 the community and upon that basis has determined that an urgency ordinance pursuant to
7 the provisions of Government Code §65858 and Culver City Charter Section 614 is
8 warranted, and shall take effect immediately upon adoption by a four-fifths (4/5) vote of
9 the City Council.

10 **SECTION 4. LEGAL, OPERATIONAL AND PLANNING STUDY.**

11 City staff is directed to study and analyze issues related to the
12 establishment, permitting and operation of massage establishments within
13 the City, and the potential impacts of such facilities on the public health,
14 safety and welfare of the community, the desirability of such facilities in
15 various zones, and the extent of regulatory controls, if any, to impose on
16 such facilities.

17 **SECTION 5. CEQA.**

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

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SECTION 6. EFFECTIVE DATE.

Pursuant to Section 614 of the City Charter, this Ordinance shall be introduced and adopted at one and the same meeting and shall become effective immediately. This ordinance shall be of no further force or effect upon the expiration of forty-five (45) days from the date of adoption, unless extended in accordance with California Government §65858.

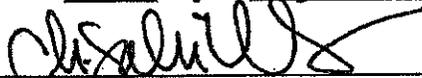
SECTION 7: SEVERABILITY.

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

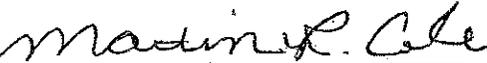
SECTION 8: PUBLICATION.

The City Clerk shall certify as to the adoption of this Ordinance and, pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three places within the City.

APPROVED and ADOPTED this 13 day of April 2015.


MEGHAN SAHLI-WELLS, MAYOR
City of Culver City, California

ATTEST:


MARTIN R. COLE
City Clerk

APPROVED AS TO FORM:

CAROL A. SCHWAB
City Attorney

A15-00195