



# COUNCIL COMMUNICATION

CC #:  
File #:

<b>Title:</b>	Amendment to Massage Services Ordinance
<b>Contact:</b>	Dee Dee Gunther, Police Public Information Officer, (916)774-5015, ddgunther@roseville.ca.us

Meeting Date: 5/17/2017  
Item #: 9.1.

## RECOMMENDATION TO COUNCIL

Adopt for first reading an ordinance amending Chapter 9.10 of Title 9 of the Roseville Municipal Code regarding massage services.

## BACKGROUND

In recent years the State of California enacted laws that affected the ability of local governments to regulate massage services within their jurisdictions. In 2003, Senate Bill 731 was signed into law. It created the California Massage Therapy Council (CAMTC), a non-profit organization that established professional standards and provided a voluntary certification process for massage professionals. Massage professionals who chose to obtain CAMTC certification were entitled to provide massage services anywhere in the state, and were exempted from any local massage permit requirements. Local governments still had the ability under state law to require that non-CAMTC-certified massage providers obtain local permits. Roseville's current ordinance requires that individual non-CAMTC-certified massage providers obtain a permit from the police department.

The 2008 state law created unintended negative consequences, by hindering the ability of local governments to prevent illicit massage establishments from infiltrating their jurisdictions. Such illicit massage businesses, including some staffed by CAMTC-certified massage therapists, were being operated as a front for prostitution. If law enforcement officers found prostitution activity, their only recourse was to issue administrative or misdemeanor citations to the individual operator involved in the activity. These enforcement operations had virtually no impact on the businesses, and the businesses could quickly replace the cited massage worker and continue operating as before.

In 2015, AB 1147, a re-authorization of the original 2009 law, the Massage Therapy Act, went into effect. It returned some authority to local governments by allowing them to regulate the business of massage therapy within their jurisdictions, including land use, local permitting and the ability to impose health and safety requirements.

On September 16, 2015, staff presented a revision of the City's massage ordinance to City Council. That version required that both individual operators and the business owners obtain permits from the City. It would have required that all massage operators working in the City of Roseville obtain CAMTC certification. The proposed ordinance was opposed by some local massage business owners, mainly on the grounds that CAMTC certification is still voluntary under state law, and requires far more hours of professional training than the existing City ordinance required. Some also strongly voiced the opinion that the City's ordinance should be directed at preventing and closing illicit massage businesses that are being operated as fronts for prostitution, and not on placing more burdensome regulations on legitimate operators. Council considered the community's feedback and directed staff to revise the ordinance in a way that addressed those concerns.

The revised ordinance now before Council includes the following changes from both the existing ordinance and the one that was presented to Council, and rejected, last year:

- The proposed ordinance requires only massage service business owners to obtain a permit from the City, whether the business exists in the form of an independent contractor, a sole provider, a corporation, or any other legal form of a business. Individual employees of massage businesses are no longer required to obtain permits.
- The revised ordinance doesn't require massage providers to hold CAMTC certification, since that professional certification is still voluntary at the state level. It requires that each massage provider working in the permitted business have a valid diploma or certificate from an approved school of massage that includes at least 125 hours of study. (Voluntary CAMTC certification requires 500 hours of study through an approved school.) The 125-hour training requirement is the same as in the existing City ordinance. The business owner is held responsible to ensure all employees meet this requirement.
- Sexually suggestive advertising of the business is prohibited.
- Penalties for violations of permit requirements may include warnings, administrative or criminal citations, or revocation of the permit and closure of the business. Grounds for revocation include repeated patterns of misconduct, criminal acts, or sexual activity while providing massages for compensation. Business owners whose permits have been revoked may not obtain a new permit for one year, and no other massage business can move into the location of the revoked permit for one year.
- Mobile massage services, such as a massage therapist going to someone's home to provide a massage, are now allowed as long as the business has a valid City massage permit.

The following table compares major requirements of the existing ordinance with the one now before Council

The following table compares major requirements of the existing ordinance with the one now before Council.

<b>Roseville Municipal Code 9.10</b>	<b>Existing</b>	<b>Proposed</b>
Massage business permit	N/A	Yes
Massage therapist permit	Yes	No
CAMTC registration required?	Yes	No
CAMTC certification required?	No	No
Proof of liability insurance	No	Yes
Required training hours	125	125
Fingerprinting and background check	Yes	Yes
City of Roseville business license	Yes	Yes
2-year permit term	Yes	Yes
Initial application fee	\$28	\$28
Renewal fee	\$25	\$25
Fingerprinting fees	Yes, vary	Yes, vary
Owner or manager presence required when business open	Yes	Yes
Business open to inspection	Yes	Yes
Massage provider dress code	Yes	Yes
Drug/alcohol use prohibited	Yes	Yes
Allowed hours of operation	6 a.m. to midnight	6 a.m. to 10 p.m.
Mobile massage services allowed?	No	Yes
Sexually suggestive ads allowed?	Not addressed	No
Revocation of business permit/closure of business authorized?	No	Yes

**Fees and Costs**

Staff proposes that fees for the business permits be \$28 for new applications and \$25 for renewal applications, the same as charged for the existing individual operator permits. This doesn't include fingerprinting fees for the applicant owner, which will vary depending on whether California only or both California and FBI clearance is required.

Owner-operators who already have a valid massage permit from the City will be asked to submit a new application for the new ordinance, but will not be required to pay fees until the date their existing permit is due for renewal. They're also not required to be fingerprinted again if they already have fingerprints on file for their existing permit.

Under the new ordinance, businesses will be required to submit proof of liability insurance. Businesses may incur costs if they don't currently have liability insurance and need to purchase it or increase their existing coverage to meet this requirement.

**Public Outreach**

On April 22, 2016, staff posted messages asking for anyone interested in the revamping of the massage ordinance to contact our investigations CSO to be added to an email list for meeting notices and updates. The notice was posted on the City's website, advertised on the police department's social media accounts, and advertised through the Chamber of Commerce. The email list currently has about 240 names. Staff held meetings to inform the massage community and any other interested community members about the proposed new business permit requirements, and to gather their feedback, on July 24 and July 27, 2016, and on February 15 and April 5, 2017. The meetings were announced to the previously mentioned email list of interested parties, and advertised on the City's website, the Chamber of Commerce's email network, and the City and Police Department's social media channels. At the most recent meeting, a draft of the proposed ordinance was distributed in advance and posted on the City's website so that interested parties could review it prior to the meeting and submit any questions. The most recent meeting was announced on the California Massage Therapist Council's website's news page. Feedback at the meetings was generally positive. Attendees asked for clarification on some points, and some fairly minor changes were made to the ordinance at their request.

FISCAL IMPACT

The ordinance will result in a minor loss of revenue to the City, as it now requires only the business and not each individual massage provider to obtain a permit. The proposed permit fees for businesses are set at the same rate as the existing fees for individuals.

ECONOMIC DEVELOPMENT / JOBS CREATED

The ordinance may result in an increased number of massage service businesses and massage-related jobs in the City, since the proposed permit fees are among the lowest in the region. However, the proposed ordinance gives the police department more effective tools to address problems related to illicit massage businesses.

ENVIRONMENTAL REVIEW

This proposed revision of the massage services ordinance is not a "project" as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines §15378). Consequently no CEQA action is required.

(CE&T) (CE&T Academic Support). Consequently no CE&T action is required.

Respectfully Submitted,

Dee Dee Gunther

Daniel Hahn, Police Chief

**ATTACHMENTS:**

Description

Ordinance

Ordinance-track changes version

**REVIEWERS:**

Department

Reviewer

Action

Date

No Reviewers Available