

STAFF REPORT

City of Lancaster

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Date: March 8, 2011

To: Mayor Parris and City Council Members

From: Elizabeth Brubaker, Housing & Neighborhood Revitalization Director

Subject: **Amendment to Chapter 5.34 of the Lancaster Municipal Code (Massage Establishments)**

Recommendation:

Introduce **Ordinance No. 962**, amending Title 5 (Business Licenses and Regulations) of the Lancaster Municipal Code, addressing State-certified massage therapists and replacing Chapter 5.34, Massage Establishments, in its entirety.

Fiscal Impact:

None.

Background:

On January 9, 2007, Ordinance 868 was introduced to the City Council for adoption. The Council heard testimony from the public expressing concern that the ordinance, as proposed, would exclude therapists who had many years of experience, but did not have the number of hours of training at an approved school required by the ordinance.

On January 23, 2007, the City Council asked staff to amend the Massage Therapist Ordinance to permit massage therapists with years of experience but no formal educational component a valid City of Lancaster business license.

On September 27, 2008, the State of California adopted Senate Bill 731, adding Chapter 10.5 of the California Business and Professions Code (commencing with Section 4600) relating to massage therapists and massage practitioners. Chapter 10.5 of the Business and Profession Code provides for regulatory scheme for the issuance of State certificates to qualified massage therapists and massage practitioners commencing on September 1, 2009. Chapter 10.5 does not mandate or require that all massage therapists and/or massage establishments obtain State Massage Therapist Certificate, rather the acquisition of State Massage Therapist Certificate is voluntary.

The City is amending the ordinance to allow State-certified massage therapists and massage practitioners to operate in the City without undergoing duplicative pre-licensing screening procedures, yet still seeks to exercise local control over massage establishments, massage technicians, and massage practitioners.

Discussion:

Section 7 of Article XI of the California Constitution provides that “a county or city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” Section 16000 of the California Business and Professions Code provides, in pertinent part, which “the legislative body of an incorporated city may, in the exercise of its police power, and for the purpose of regulation, as herein provided, and not otherwise, license any kind of business not prohibited by law transacted and carried on within the limits of its jurisdiction.” Section 51030 of the California Government Code provides that “the legislative body of a city may enact an ordinance which provides for the licensing for regulation of the business of massage when carried on within the city.”

The City has a significant interest in regulating massage establishments by imposing reasonable standards relative to the skill and experience of massage therapists and reasonable conditions in the operation of massage establishments. The purpose of the ordinance is to protect the health, safety and welfare of the citizens of the city from massage establishments being used as houses of prostitution or sites for illegal drug use and sales. The ordinance also allows the City to insure that massage therapists have sufficient training or experience to safely and responsibly practice massage therapy.

In addition, Chapter 5.34 has been amended to address various items discovered by Los Angeles County Sheriff personnel, Housing and Neighborhood Revitalization personnel, the District Attorney’s office, the City’s prosecuting attorney and massage establishments and therapists that were inadvertently omitted when the ordinance was adopted.

The ordinance is simply a mechanism for the city to regulate massage establishments and massage therapists to protect the health, safety and welfare of the citizens of the city.

Attachment:

Ordinance No. 962