

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA AUTHORIZING DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT STAFF ACCESS TO SUMMARY CRIMINAL HISTORY INFORMATION OF SPECIFIC INDIVIDUALS FOR PURPOSES OF REVIEWING APPLICATIONS FOR MASSAGE ESTABLISHMENT CERTIFICATIONS WITHIN THE CITY

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts, and joint powers authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and

WHEREAS, Penal Code Section 11105(b)(11) authorizes cities, counties, districts, and joint powers authorities to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, governing body of a city, county or district or joint powers authority to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes; and

WHEREAS, on March 18, 2025, the Council of the City of Santa Rosa adopted Ordinance ORD-2025-004 establishing Santa Rosa City Code Chapter 20-49 pertaining to Massage Regulation and Massage Establishment Registration; and

WHEREAS, Santa Rosa City Code Section 20-49.040(A)(6)(a) provides that “Each Business Owner and Employee of the Massage Establishment who is not a Certified Massage Therapist, Non-Therapist Employee, or Certified Massage Therapist who has not undergone a background check as part of their certification process shall ... Obtain a ‘Request for Live Scan Service Form’ from the Reviewing Officer, and submit the form and requisite fees to a California Live Scan Fingerprinting Services location;” and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Business Owner” as any of the following Individuals:

1. The sole proprietor of a Massage Business or Establishment;
2. Any general partner of a partnership that owns and operates a Massage Business or Establishment; or
3. Any Individual who has an ownership interest in a corporation that owns and operates a Massage Business or Establishment; and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Owner” as “an individual or partnership that has legal title to and control over property or an asset. This includes the right to possess, use, transfer, and dispose of the property as they see fit”; and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Ownership” as “the legal right or state of having a proprietary interest in something. This can refer to tangible assets like real estate or intangible assets such as intellectual property, and it grants the owner the exclusive authority to control and benefit from that property;” and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Partner” as “a co-owner of a business or enterprise who shares in its profits, losses, and responsibilities. They are typically involved in the operations and can enter into contracts on behalf of the business;” and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Partnership” as “a business structure where two or more individuals or partners agree to operate a business for profit. This arrangement is often outlined in a formal partnership agreement that specifies each person's roles, responsibilities, and how profits and losses are divided;” and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Property Owner” as “...the responsible party, person or partnership owning the real property upon which a Massage Business or Massage Establishment is located, as shown on the last equalized tax assessment roll maintained in the Sonoma County Assessor' s office; or any person, copartnership, agent, operator, firm, association, corporation, or fiduciary having a legal or equitable interest in the property or who otherwise exercises control of the property, including the trustee or guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered by a court of competent jurisdiction to take possession or control of the real property;” and

WHEREAS, Santa Rosa City Code Section 20-49.020 defines “Reviewing Officer” as “the Code Enforcement Officer or other person, or persons designated by the City to conduct any application reviews or inspections as required or permitted under this chapter;” and

WHEREAS, these definitions are included in order to meet the requirements of the Federal Bureau of Investigation’s PL92-544 Criteria; and

WHEREAS, Santa Rosa City Code Section 20-49.040(B) provides that, “The Reviewing Officer may deny the issuance of an Establishment certificate if ... an Individual required to submit to a background check pursuant to subsection (A)(6) of this Section fails to pass such background check;” and

WHEREAS, the Massage Establishment Certification program as defined in Chapter 20-49 Massage Regulation and Massage Establishment Registration – intended to protect public health, safety, and welfare by establishing clear regulations and issuing Certified Massage Establishment Certifications for compliant Establishments providing Massage Therapy services; prohibiting prostitution and other illegal activities conducted under the guise of Massage Therapy; and setting specific sanitation, health,

and operational standards for Massage Establishments – cannot be effectively implemented without the ability to conduct reasonable background checks as an integral component of the certification process.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa authorizes the Department of Planning and Economic Development – Code Enforcement Division to access state and federal-level summary criminal history information for each Business Owner and Employee of the Massage Establishment who is not a Certified Massage Therapist, Non-Therapist Employee, or Certified Massage Therapist who has not undergone a background check as part of their certification process; who are associated with a business offering massage services who are either applying for or have already been approved as a Certified Massage Establishment within the city limits of Santa Rosa; and may not disseminate the information to a private party.

BE IT FURTHER RESOLVED that the Council declares that the Department of Planning and Economic Development - Code Enforcement Division shall not consider a person who has been convicted of a violent or serious felony or misdemeanor, or any other gross violations as set forth in Santa Rosa City Code Section 20-49.120(A)(2) eligible to receive a Massage Establishment Certificate as provided for under Santa Rosa City Code Chapter 20-49.

IN COUNCIL DULY PASSED this 10<sup>th</sup> day of March, 2026

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSE:

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
City Clerk Mayor

APPROVED AS TO FORM: \_\_\_\_\_  
City Attorney