

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING TITLE 20 OF THE SANTA ROSA CITY CODE BY AMENDING CHAPTER 20-49 ENTITLED MASSAGE REGULATION AND MASSAGE ESTABLISHMENT REGISTRATION

WHEREAS, on March 18, 2025, the City Council of the City of Santa Rosa adopted Ordinance No. ORD-2025-004, amending Title 6 and Title 20 of the Santa Rosa City Code by repealing Chapter 6-32 entitled Massage Therapy, Massage Business or Establishment, in its entirety; adding a new Chapter 20-49 entitled Massage Regulation and Massage Establishment Registration; amending Sections 20-23.030 and 20-24.030 regarding permitting requirements for massage related uses; amending Sections 20-50.020(a), 20-52.060 and 20-62.030(b)(2) by adding administrative adjustment provisions; and amending Section 20-70.020 regarding definitions of massage related uses and business service uses; and

WHEREAS, on April 18, 2025 this ordinance became effective; and

WHEREAS, on May 19, 2025 the fees related to this ordinance became effective, and acceptance of applications for Massage Establishment Certificates commenced; and

WHEREAS, on October 18, 2025, the 180-day grace period established under the ordinance ended, and active enforcement commenced; 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 20-49.040(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, 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, 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; and

WHEREAS, the process for the City to obtain Live Scan background check information requires compliance with Federal Bureau of Investigation’s PL92-544 Criteria, resulting in the need to add certain definitions to the existing ordinance; and

WHEREAS, in the course of administering the existing ordinance amendment, additional opportunities for minor adjustments to the ordinance, which may occur through the amendment process, were identified.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Section 20-49.020 Definitions is amended by adding the following defined terms:

“**Owner**” means 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.

“**Ownership**” means 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.

“**Partner**” means 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.

“**Partnership**” means 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.

Section 2. Section 20-49.040(A)(1) Massage Establishment Registration and Certification; Application; is amended to read as follows:

1. Legal name, address, and telephone number of the Massage Establishment. The Establishment name shall correspond to the named lessor on any lease agreement, **a copy of which will be provided when applicable**, and with the entity named on the Zoning Clearance and Business Tax Certificate.

Section 3. Section 20-49.040(A)(3) Massage Establishment Registration and Certification; Application; is amended to read as follows:

3. An approved Zoning Clearance, or Use Permit, for the proposed location, as required by Division 2 of this code, and a copy of a current business tax certificate issued pursuant to Chapter 6-04 of this code. **Where cooperative business arrangements exist, with several Massage Establishments occupying or sharing the same premises, only one Zoning Clearance will be required for each distinct use type.**

Section 4. Section 20-49.040(B) Massage Establishment Registration and Certification; Issuance; is amended to read as follows:

- B. Issuance. **Upon the receipt of a complete and adequate application for a Massage Establishment certificate required by this chapter, the Reviewing Officer may approve or deny the application for a certificate within a reasonable period of time, or they may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary.** ~~Upon complete provision by the Massage Establishment of the foregoing documentation, and approval thereof, the Reviewing Officer shall issue to the Massage Business~~ **Once issued,** a city Massage Establishment certificate, ~~which~~ shall be valid through December 31 of the second calendar year following issuance. **An application may be denied based upon the grounds for denial and revocation pursuant to Section 20-49.120.** Where any application or renewal is denied stemming from the revocation of an Establishment Certificate for procedural violations of this chapter, pursuant to Section 20-49.120(A)(C)(1), no reapplication will be accepted for a period of two (2) years. Where such denial or revocation stems from a gross violation of this chapter, pursuant to Section 20-49.120(A)(C)(2), application or renewal will not be considered at any time. ~~The Reviewing Officer may deny the issuance of an Establishment certificate if any of the required information is not true, complete, or correct, or if an Individual required to submit to a background check pursuant to subsection (A)(6) of this Section fails to pass such background check.~~ City Massage Establishment certificates may not be issued to a Massage Business seeking to operate at a particular location if:

1. Another Massage Business or Establishment is, or was, operating at that particular location and that Massage Business or Establishment is, or was, in the process of revocation for procedural violations pursuant to Sections 20-49.120(A)(C)(1) and (E)(G)(1), during the pendency of the revocation and one (1) year following revocation.
2. Another Massage Business or Establishment is, or was, operating at that particular location and that Massage Business or Establishment is, or was, in the process of revocation for gross violations pursuant to Sections 20-49.120(A)(C)(2) and (E)(G)(2), during the pendency of the revocation and two (2) years following revocation.

Section 5. Section 20-49.040(E) Massage Establishment Registration and Certification; Fees; is amended to read as follows:

- E. Fees. The Registration application, and any ~~amendment to or~~ **subsequent** renewal of an existing Massage Establishment certificate shall be accompanied by a fee, as established by City Council resolution. The provisions of this section shall not prevent the city from imposing supplemental inspection fees when multiple additional inspections are prescribed pursuant to Section 20-49.060, and for the background checks and fingerprinting fees for Business Owners and Employees of a Massage Business or Establishment who are not certified and who are subject to such background checks pursuant to this chapter. All City generated fees, including fees for appeal, are established by city council resolution.

Section 6. Section 20-49.050(F) Operational Requirements; General Operational Requirements; Hygiene; is amended by adding subsection 11 as follows:

- 11. All liquids, creams, or other preparations used on or made available to patrons shall be kept in clean and closed containers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream or other preparation is to be used on or made available to a patron, it shall be removed from the container in such a way as not to contaminate the remaining portion.**

Section 7. Section 20-49.050(G)(2)(a) Operational Requirements; General Operational Requirements; Interior areas of the Massage Establishment; is amended to read as follows:

- a. One (1) main entry door shall be provided for Patron entry to the Massage Establishment, which shall open directly into the interior Reception and Waiting Area of the Massage Establishment, **where such exist**. Except during emergency egress situations, all Patrons, and any persons other than Individuals employed or retained by the Massage Establishment shall be required to enter and exit through the main entry door. The main entry door shall remain unlocked during business hours when the Establishment is open for business or when Patrons are present unless the Massage Establishment is a business entity owned by a sole proprietor and there is no additional staff available to assure security;

Section 8. Section 20-49.120 Denial and revocation of Registration Certificates, is amended to read as follows:

20-49.120 Denial and revocation of Registration Certificates.

A. Denial of Application. The department may deny an application for a Massage Establishment certificate based on any of the following:

- 1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter;**
- 2. An individual required to submit to a background check pursuant to section 20-49.040(A)(6) fails to pass such background check;**
- 3. The application seeks authorization for a Massage Establishment Certificate for a Massage Establishment that fails to comply with all provisions of the operational requirements of section § 20-49.050;**
- 4. Any other reason the granting of a Massage Establishment Certificate to the applicant is not consistent with the public health and welfare or**

the purpose of this chapter, including the applicant's history of noncompliance with this chapter or other laws.

AB. **Notice of Denial.** If an application for a Massage Establishment Certificate is denied, the Reviewing Officer shall serve on the applicant a written notice of denial and shall indicate the right of appeal in accordance with Chapter [20-62](#) of this code, and all massage activity at the Massage Establishment must cease following issuance of such denial and no activity for which the certificate of operation or permit is required shall be conducted while any appeal of the denial may be pending

BC. **Revocation of Registration Certificates.** ~~Findings.~~ City Massage Establishment Certificates may be revoked upon a finding that procedural or gross violations have occurred upon or relative to the premises of a Massage Establishment, or have been committed by any Employee, Business Owner, Manager, Massage Therapist, Independent Therapist, Non-Therapist Employee, or other person in the following manners:

1. Procedural violations. Within any consecutive two (2) year period, there have been three (3) or more instances of any combination of the following procedural violations being found to occur:
 - a. An actively performing Massage Therapist not in possession of, or no longer in possession of, a current and valid Massage Therapist Certificate issued by an accepted Certifying Body;
 - b. An active Massage Establishment not in possession of, or no longer in possession of, a current and valid Massage Establishment Certificate issued by the city;
 - c. A Massage Establishment not in possession of, or no longer in possession of, as applicable, any required city Business tax certificate, Business improvement area tax certificate, zoning clearance, construction permit for prior or current tenant improvements, or other required city approvals;

- d. The city determines that a factual misrepresentation was included on the application for a registration or renewal of a Massage Establishment Certificate;
 - e. Violation of any operational requirement pursuant to section 20-49.050, excepting subsections (E)(1)&(2); (G)(1)(f); and (H)(1),(4)&(5);
 - f. Failure to allow any inspection pursuant to section 20-49.060;
 - g. Violation of any federal, state, or local law, including any provision of this chapter that is not otherwise referenced in this section.
2. Gross violations. Within any period of time, there is a single (1) instance of any of the following gross violations occurring:
- a. A violation by any Employee, Business Owner, Manager, sole proprietor, Massage Therapist, Independent Therapist, Non-Therapist Employee or other person within a Massage Establishment of California Business and Professions Code Section 4609;
 - b. Any violation by any Employee, Business Owner, Manager, sole proprietor, Massage Therapist, Independent Therapist, Non-Therapist Employee, or other person within a Massage Establishment of section 20-49.050(E)(1)&(2); (G)(1)(f); or (H)(1),(4)&(5);
 - c. An Employee, Business Owner, Manager, sole proprietor, Massage Therapist, Independent Therapist, Non-Therapist Employee, or other person being required to register under the provisions of California Penal Code Section 290 (sex offender registration);
 - d. A Business Owner, Manager, or sole proprietor convicted of California Penal Code Sections 236.1(a) (Human Trafficking –

Labor Trafficking); 236.1(b) (Human Trafficking – Sex Trafficking); 236.1(c) (Human Trafficking of a minor); 266h (pimping); 266i pandering); 315 (keeping or residing in a house of ill-fame); 316 keeping disorderly house); 318 (prevailing upon person to visit a place for prostitution); 647(b) (engaging in or soliciting prostitution); or 653.23 (supervision of prostitute);

- e. A Business Owner, Manager, or sole proprietor having a Massagerelated Business permit or license denied, revoked, restricted, or suspended by any agency, board, city, county, territory, or state in response to a finding of any violation by such jurisdiction that is equivalent in severity to subsection (d) above;
- f. A Business Owner, Manager, or sole proprietor subject to an injunction for nuisance pursuant to California Penal Code Sections 11225 through 11235 (red light abatement); California Health and Safety Code Section 11570 et seq. (Drug Abatement Act); or California Civ. Code 3480 (Public Nuisance);
- g. An Employee, Business Owner, Manager, sole proprietor, Massage Therapist, Independent Therapist, Non-Therapist Employee or other person being convicted of a felony offense involving the sale of a controlled substance specified in sections 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, or any crime involving dishonesty, fraud, deceit, violence, or moral turpitude;
- h. A Business Owner, Manager, or sole proprietor being convicted in any other state of an offense which, if committed in this state, would have been punishable as one or more referenced offenses in this subdivision; or
- i. Any current disciplinary action by an accepted Certifying Body (not including nonpayment or insufficient education).

3. Gross violations - multiple Establishments owned by same Business Owner. Upon any finding of gross violation at one of multiple Massage Establishments owned by the same Business Owner, comprehensive inspections of all of the additional Massage Establishments shall immediately be performed, with multiple inspections conducted when deemed necessary, pursuant to Section 20-49.060.

~~E~~D. Procedures. When notices of violation or administrative citations are issued upon findings that procedural or gross violations have occurred as provided by this section, and revocation of a Massage Establishment Certification and/or an Administrative Adjustment is indicated, the revocation procedure will be initiated in the manner prescribed by Section 20-54.100.

~~D~~E. Effective Date of Revocation. Revocation issued pursuant to subsection ~~(B)~~(D) of this section will be effective immediately upon the issuance of the order, unless an appeal is filed in accordance with subsection ~~(D)~~(F) of this section;

~~E~~F. Appeal. Appeals will be administered in accordance with Chapter 20-62 of this code;

~~F~~G. Reapplication. A Massage Establishment which has been subject to revocation proceedings may reapply for a Massage Establishment Registration Certificate as follows:

1. Where revocation was the result of Procedural violations, reapplication by the Establishment will be considered two (2) years after the original certificate was revoked;
2. Where revocation was the result of gross violations, reapplication by the Establishment will not be considered at any time, and an application for a different or new Establishment shall not be considered upon the same property for two (2) years.

Section 9. Environmental Determination. The Council finds that the amendments to this ordinance are exempt from the provisions of the California Environmental Quality Act under 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect

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physical change in the environment, and because it is not a project as defined in CEQA Guidelines Section 15378, as it has no potential for resulting in a physical change in the environment, directly or indirectly. Additionally, or alternatively, the Ordinance is exempt from CEQA under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that this Ordinance or its implementation of the Amendments would have a significant effect on the environment, would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. The Ordinance is also exempt from CEQA pursuant to CEQA Guidelines section 15301 in that no new development or construction is authorized by the Ordinance and nothing in the Ordinance permits any expansion of use beyond the level of land uses already existing in the City.

Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed and adopted this ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 11. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on _____, 2026.

IN COUNCIL DULY PASSED AND ADOPTED this ____ day of _____, 2026.

AYES:

NOES:

ABSENT:

ABSTAIN/RECUSE:

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM: _____
City Attorney