



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

July 12, 2016

**SUBJECT:** Consideration and Adoption of Urgency Ordinance  
Extending the Temporary Moratorium on Massage  
Establishments

**PREPARED BY:** Greg Greeson, City Manager  
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### **Recommendation**

Staff recommends that Council approve the attached urgency ordinance extending the temporary moratorium on massage establishments. This extension will prohibit the licensing, permitting and opening of massage establishments within the City and the issuance of permits to massage practitioners for an additional 10 months and 15 days, for a total moratorium period of one year. This extension is needed to provide staff with the necessary time, and for the Planning Commission and the City Council to consider, comprehensive local regulations governing massage establishments and massage practitioners to protect public health, safety and welfare.

### **Background/Analysis**

On May 31, 2016, following a noticed public hearing, the City Council adopted Ordinance No. 459 imposing a temporary moratorium on the licensing, permitting, and opening of massage establishments and the issuance of massage practitioner permits within the City for a period of 45 days, which moratorium will expire on July 15, 2016 unless extended. This moratorium was adopted in response to recent developments in the law, as outlined in Ordinance No. 459, that have made it more difficult for cities and counties to impose land use controls pertaining to the local regulation of massage establishments.

Moreover, as outlined in Ordinance No. 459, many jurisdictions throughout the state have seen an increase in the number of massage establishments as a whole, as well as increases in illicit establishments which engage in prostitution and sex trafficking. The increase in such illicit activity has been found to be largely due to the requirement that massage establishments not be regulated more strictly than other land uses that provide professional services, in addition to inadequacies in CAMTC's certification criteria and enforcement practices.

The presence of massage establishments that engage in illicit activities changes the character of neighborhoods, causes blight, and impacts the local economy, as legitimate businesses

refuse to operate or locate next to or near such illicit uses. Moreover, these establishments threaten the public health, safety, and welfare in that they operate as fronts for prostitution and potential sex trafficking operations.

Although there are no massage establishments currently operating within the City, the City has received business license applications from massage establishments that desire to operate within City limits. Because the City does not have a regulatory scheme in place for such establishments, the City has been compelled to process these applications using the City's conditional use permit procedures, but without the safeguards of having massage establishment-specific regulations in place.

In light of the enforcement issues encountered by other jurisdictions with respect to their regulation of massage establishments and a foreseeable, anticipated increase in business license applications from massage establishments that desire to operate within the City, staff desires to amend the Code by adopting new zoning, land use, and business licensing regulations for massage establishments and massage practitioners that are consistent with AB 1147 to protect the health, safety, and general welfare of all persons from the negative effects attributable to the potentially illicit activities of massage establishments. The extension of Ordinance No. 459 will provide staff within sufficient time to work on a comprehensive ordinance that lawfully regulates massage establishments and massage practitioners within the City.

Staff believes that extension of the temporary moratorium is necessary to ensure that the City's regulation of massage establishments and massage practitioners is not deemed inconsistent with state law, and it is therefore urgently necessary that the proposed extension ordinance take effect immediately to protect the public health, safety and welfare and to prevent new uses that are inconsistent with the regulations that the City plans to adopt.

Government Code section 65858 provides that the City Council may, to protect the public safety, health, and welfare, extend the moratorium ordinance, after a noticed public hearing, to prohibit uses of land which may conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or the planning is considering or studying or intends to study within a reasonable period of time. Such extension requires a four-fifths vote of the Council.

**Attachments:**

1. Urgency Ordinance of the City of Wheatland Extending the Temporary Moratorium on Massage Establishments