

**ORDINANCE NO. 28811**

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.200.740 OF CHAPTER 20.200 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO CLARIFY THE DEFINITION OF A MASSAGE PARLOR USE TO NOT INCLUDE STATE-CERTIFIED MASSAGE THERAPISTS OR PRACTITIONERS**

**WHEREAS**, the provisions of this Ordinance are encompassed within and are a part of the subject of an Environmental Impact Report ("EIR") prepared for the San José General Plan 2020, which EIR was prepared in conformance with the California Environmental Quality Act of 1970, together with related state and local implementation guidelines, as the same may have been amended (collectively, "CEQA"), and the EIR was certified by the City Council on August 16, 1994; and

**WHEREAS**, this City Council of the City of San José, acting as lead agency under CEQA, proposes to approve this Ordinance; and

**WHEREAS**, the City Council has, on August 16, 1994, also adopted Resolution No. 65459 in connection with the EIR; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this subject Ordinance; and

**WHEREAS**, this Council does hereby certify that, as the decision-making body, it has considered and approves the information contained in such EIR and Resolution No. 65459 prior to acting upon or approving this Ordinance.

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

**SECTION 1.** Section 20.200.740 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

### **20.200.740 Massage Parlor**

- A. "Massage parlor" is a building or portion thereof, or a place, where massage is administered for compensation or from which a massage business or service for compensation is operated, except as provided below in this Section 20.200.740.
- B. Notwithstanding the provisions of Section 20.200.740.A above, "massage parlor" does not include any of the following establishments:
1. Establishments where massage is administered only by persons who each possess a current, active and valid certificate issued pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code and copies of all such certificates have been provided to the Director, or
  2. Establishments where massage is administered in conjunction with:
    - a. The practice of a medical doctor, chiropractor, dentist, osteopath, physical therapist or registered nurse; or
    - b. A state-approved massage school; or
    - c. An athletic club or a full-service barber or beauty salon where not more than fifteen percent (15%) of floor space is used for massage activity. For purpose of this definition, a full service barber must at a minimum provide hair styling, including shampoos, and shave services; and a full service beauty salon must at a minimum provide services for hair styling, including shampoos, and facials.
- C. Establishments where massage is administered only by persons who each possess a current, active and valid certificate issued pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code and copies of all such certificates have been provided to the Director are and shall be treated as a personal services use, not a massage parlor use, under this Title.

**PASSED FOR PUBLICATION** of title this 14<sup>th</sup> day of September, 2010, by the following vote:

AYES: CHIRCO, CHU, KALRA, LICCARDO, NGUYEN,  
OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CAMPOS, CONSTANT, HERRERA.

DISQUALIFIED: NONE.



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CHUCK REED  
Mayor

ATTEST



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LEE PRICE, MMC  
City Clerk