

ORDINANCE NO. 17-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO SANTA MARGARITA, CALIFORNIA, ADOPTING ZONING CODE TEXT AMENDMENT CA 17-003 AMENDING TABLE 9.03.4 (USES IN COMMERCIAL DISTRICTS), AND SECTION 9.01.190 ("M" DEFINITIONS) OF THE RANCHO SANTA MARGARITA MUNICIPAL CODE TO PERMIT MASSAGE ESTABLISHMENTS IN COMMERCIAL DISTRICTS, AND TO ENSURE CONFORMANCE AND CONSISTENCY WITH CHAPTER 4.02 REGULATION OF MASSAGE ESTABLISHMENTS, INCLUDING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTIONS 15060(C)(2) AND (C)(3)

THE CITY COUNCIL OF THE CITY OF RANCHO SANTA MARGARITA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Rancho Santa Margarita hereby finds, determines, and declares as follows:

- A. On December 10, 2002, the City of Rancho Santa Margarita adopted the Rancho Santa Margarita General Plan.
- B. On April 11, 2007, the City Council of the City of Rancho Santa Margarita adopted Title 9 of the Rancho Santa Margarita Municipal Code (the "Rancho Santa Margarita Zoning Code"), establishing allowable uses within all zoning districts.
- C. In 2008, the state legislature adopted Senate Bill 731 ("SB 731"), Section 4600 *et seq.* of the Business and Professions Code, relating to voluntary statewide certification of massage practitioners and therapists, and restricting local control of massage establishments.
- D. SB 731 precluded cities from imposing local licensing and regulatory requirements on massage establishments that utilized state-certified massage therapists and practitioners exclusively.
- E. The enactment of SB 731 has had an unintended consequence of causing the proliferation of illicit massage establishments that are fronts for prostitution and may also be involved in human trafficking.
- F. Assembly Bill 1147, signed by Governor Jerry Brown, and referred to as the "Massage Therapy Act", was enacted in response to criticism against SB 731 and restores local regulatory authority over massage establishments by

allowing cities to impose reasonable conditions on the operation of massage establishments.

- G. On March 22, 2017, the City Council of the City of Rancho Santa Margarita adopted Ordinance No. 17-01 amending and restating Chapter 4.02 of Title 4 of the Rancho Santa Margarita Municipal Code relating to the regulation of massage establishments.
- H. The City of Rancho Santa Margarita has initiated Zoning Code Text Amendment CA 17-003 in accordance with Section 9.08.080 of the Rancho Santa Margarita Zoning Code, to amend Table 9.03.4 (Uses in Commercial Districts) and 9.01.190 ("M" Definitions) of the Rancho Santa Margarita Municipal Code to permit massage establishments in Commercial Districts, and to ensure conformance and consistency with Chapter 4.02 Regulation of Massage Establishments.
- I. On July 5, 2017, the Planning Commission of the City of Rancho Santa Margarita held a duly noticed public hearing and considered public comments and the written and oral information and testimony presented by City staff, community residents and other interested parties, and recommended that the City Council approve and adopt Zoning Code Text Amendment CA 17-003.
- J. On August 23, 2017, the City Council of the City of Rancho Santa Margarita held a duly noticed public hearing and considered public comments and the written and oral information and testimony presented by City staff, community residents and other interested parties concerning proposed Zoning Code Text Amendment CA 17-003.

SECTION 2. In accordance with Section 9.08.080(d) of the Rancho Santa Margarita Zoning Code, the following findings for approving Zoning Code Text Amendment CA 17-003 are hereby made:

(A) GENERAL PLAN

Finding: That the proposed Zoning Code Text Amendment is consistent with the goals, policies, programs, and land uses of applicable elements of the General Plan.

The proposed Zoning Code Text Amendment (ZCTA) is consistent with the goals, policies, programs and land uses of applicable elements of the General Plan because it ensures consistency between the Zoning Code and Chapter 4.02 of Title 4 of the Rancho Santa Margarita Municipal Code relating to the regulation of massage establishments. Chapter 4.02 was recently amended to conform to the requirements of the Massage Therapy Act and to regulate the business of massage to the extent authorized by the Massage Therapy Act by imposing permit requirements and restrictions that are reasonably necessary to protect the health, safety and welfare of the citizens of the City. Further, the proposed ZCTA specifies that massage

establishments are a permitted land use in the Commercial Zoning Districts, which supports General Plan Land Use Element Policy 1.2 which seeks to encourage high-quality commercial activities in the community that improve access to essential services and entertainment opportunities.

(B) COMPATIBILITY

Finding: That the proposed Zoning Code Text Amendment will not adversely affect surrounding properties or the surrounding environment.

The proposed Zoning Code Text Amendment (ZCTA) clarifies that massage establishments are a permitted land use in Commercial Zoning Districts and are permitted subject to the requirements of Chapter 4.02 which requires licensing of all massage establishments. Consequently, the proposed ZCTA will not adversely affect surrounding properties or the surrounding environment.

(C) GENERAL WELFARE

Finding: That the proposed Zoning Code Text Amendment promotes public health, safety, and general welfare and serves the goals and purposes of Title 9.

The proposed Zoning Code Text Amendment will serve the goals and purposes of Title 9 by clarifying and confirming that massage establishments are a permitted land use in Commercial Zoning Districts and are permitted subject to the licensing requirements of Chapter 4.02 of the Municipal Code. The licensing provisions of Chapter 4.02 will ensure that massage establishments will not adversely impact the public health, safety, or general welfare.

SECTION 3. Title 9 of the City of Rancho Santa Margarita Municipal Code (Planning and Zoning), Chapter 9.01 (General Provisions), Section 9.01.190 ("M" Definitions), is hereby amended to add a definition for "massage establishment" as follows:

*Massage establishment* means any business or establishment with a fixed location within the City of Rancho Santa Margarita where any individual, firm, association, partnership, limited liability company, corporation, or combination of individuals, offers, engages in, conducts, carries on or permits to be engaged in, conducted or carried on, massage services, as defined in Chapter 4.02, within the City, including the business office of a sole provider who provides massage services at such business office. Any type of business or establishment at which massage services are provided shall be considered a massage establishment for purposes of this Title, regardless if the business holds itself out as something other than a massage establishment and/or also offers or provides other types of products or services. Any business or establishment that offers any combination of massage services and sauna facilities, including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs, shall be deemed a massage establishment under this Title.

SECTION 4. Title 9 of the City of Rancho Santa Margarita Municipal Code (Planning and Zoning), Chapter 9.03 (Zoning Districts and Standards), Table 9.03.4 (Uses in Commercial Districts), is hereby amended to remove “Massage therapy” and add “Massage establishment” as follows:

| Use                   | CG | CN | Notes and Exceptions  |
|-----------------------|----|----|---|
| Massage therapy       | A  | A  | <del>Allowed only as an accessory use to a primary use as defined in Section 9.01.190. Subject to Chapter 4.02.</del> |
| Massage establishment | P  | P  | Subject to a Massage Establishment Permit pursuant to Chapter 4.02.   |

SECTION 5. The City Council of the City of Rancho Santa Margarita determines that Zoning Code Text Amendment CA 17-003 is not subject to the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Chapter 3, Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly. Approval of Zoning Code Text Amendment CA 17-003 does not approve any development project. Approval of Zoning Code Text Amendment CA 17-003 will correct the definition applied to a use already permitted and existing in the City’s commercial zoning districts, and ensure consistency between the Zoning Code and Chapter 4.02 (Regulation of Massage Establishments) of the Rancho Santa Margarita Municipal Code.

SECTION 6. The City Council of the City of Rancho Santa Margarita determines that, pursuant to Section 711.4 of the California Fish and Game Code, this Ordinance is exempt from the required fees as it has been determined that no impacts to wildlife resources will result from the project.


SECTION 7. The City Council of the City of Rancho Santa Margarita determines that this Ordinance will not have any adverse impacts to any subregional Natural Communities Conservation Planning (NCCP) Program.

SECTION 8. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Rancho Santa Margarita hereby declares that it would have adopted this Ordinance and each

section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 9. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted as required by law.

PASSED, APPROVED AND ADOPTED THIS 13<sup>TH</sup> DAY OF SEPTEMBER 2017.

  
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CAROL A. GAMBLE, MAYOR

ATTEST:

  
\_\_\_\_\_  
AMY DIAZ, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF RANCHO SANTA MARGARITA )

I, Amy Diaz, City Clerk of the City of Rancho Santa Margarita, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 17-03 was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 23<sup>rd</sup> day of August 2017, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 13<sup>th</sup> day of September 2017 by the following vote, to wit:

AYES: Council Members Beall, Holloway, McGirr, Mayor Pro Tempore Vaughn and Mayor Gamble (5)

NOES: None (0)

ABSENT: None (0)

ABSTAIN: None (0)

  
\_\_\_\_\_  
AMY DIAZ, CITY CLERK

AFFIDAVIT OF POSTING  
AND PUBLICATION

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF RANCHO SANTA MARGARITA )

AMY DIAZ, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Rancho Santa Margarita;

That in compliance with State Laws of the State of California, ORDINANCE NO. 17-03, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO SANTA MARGARITA, CALIFORNIA, ADOPTING ZONING CODE TEXT AMENDMENT CA 17-003 AMENDING TABLE 9.03.4 (USES IN COMMERCIAL DISTRICTS), AND SECTION 9.01.190 ("M" DEFINITIONS) OF THE RANCHO SANTA MARGARITA MUNICIPAL CODE TO PERMIT MASSAGE ESTABLISHMENTS IN COMMERCIAL DISTRICTS, AND TO ENSURE CONFORMANCE AND CONSISTENCY WITH CHAPTER 4.02 REGULATION OF MASSAGE ESTABLISHMENTS, INCLUDING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTIONS 15060(C)(2) AND (C)(3)

on the 22<sup>nd</sup> day of September, 2017, was published in the Coto de Caza News; and was in compliance with City Resolution No. 00-01-06-07, on the 22<sup>nd</sup> day of September, 2017, caused to be posted in three places in the City of Rancho Santa Margarita, to wit:

Rancho Santa Margarita City Hall  
Fire Station 45  
Trabuco Canyon Water District

  
\_\_\_\_\_  
AMY DIAZ, CITY CLERK  
Rancho Santa Margarita, California