



DATE: January 27, 2026

TO: Mayor and City Council

FROM: City Attorney
Development Services Director
Police Chief

SUBJECT: Moratorium on New Massage Businesses: Adoption of an Interim Urgency Ordinance Pursuant to Government Code section 65858, Extending the Temporary Moratorium on New Massage Businesses in Hayward for up to 10 Months and 15 Days, and Finding that the Action is Exempt from Environmental Review

RECOMMENDATION

That the City Council adopts an interim urgency ordinance (Attachment II) extending the temporary moratorium on new massage businesses in Hayward for up to 10 months, 15 days and finds that the action is exempt from environmental review under the California Environmental Quality Act (CEQA).

SUMMARY

On December 16, 2025, the City Council adopted Ordinance No. 25-16, an interim urgency ordinance imposing a 45-day moratorium on approval of new massage businesses in Hayward. The moratorium will expire on January 30, 2026, unless extended by the City Council. Staff recommends that the City Council extend the temporary moratorium for up to 10 months, 15 days as allowed by state law. Staff has begun the process of developing new massage regulations which are anticipated to be presented to the City Council in Spring 2026.

During this moratorium no conditional use permits, massage permits, or business licenses would be issued for new massage establishments or existing establishments undergoing a change of ownership. Under current zoning regulations, massage businesses are allowed by right in the downtown core but require a conditional use permit in some other commercial areas and are completely prohibited in other parts of the city. Additionally, massage businesses must obtain an operating permit (massage permit) from the Hayward Police Department pursuant to Hayward Municipal Code Chapter 6, Article 10.

State law (Government Code section 65858) authorizes, as a means of protecting public health, safety and welfare, the adoption of an interim ordinance to establish a temporary

moratorium on specified uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering, studying, or intends to study within a reasonable time. The urgency ordinance requires a 4/5 vote of the legislative body and can last for up to 2 years (45 day initial term with a first extension up to 10 months, 15 days and a final extension up to 1 year).

BACKGROUND

HPD has become aware of instances of commercial sex work taking place at permitted and unpermitted massage businesses within the City. Although there are mechanisms in place to revoke existing permits for these types of violations, the lack of land use controls for massage businesses downtown creates challenges in processing new operating permit applications, and increases the risk that these new establishments will become hosts for commercial sex activity and human trafficking. A temporary pause in the issuance of new permits for massage businesses would allow city staff time to consider alternative approaches to land use approval and operational regulation of these businesses that would provide greater safeguards for the community.

New land use regulations, including stricter controls around massage establishments, are planned to be incorporated into the Business Friendly Hayward project,¹ an effort aimed at "right-sizing" the use permit process among other things, which is currently underway and expected to be adopted in Spring 2026. The Planning Division is leading the Business Friendly Hayward Project and has already been in communication with Hayward Police Department staff about potential changes to the Downtown Code, Zoning Ordinance, and Massage Permit Process to help address the issues discussed above. Additionally, the Hayward Police Department is collaborating with the City Attorney's Office to develop amendments to the Massage Permit Ordinance to strengthen enforcement capabilities.

The following example provides an illustration of the significant public health and safety risk posed by massage establishments, and the need for more robust local regulations: shortly before the 45-day moratorium was adopted, the Santa Clara County District Attorney's Office announced the arrest of three individuals who are suspected of running a network of brothels in the Bay Area, including one in Hayward.² According to the Santa Clara District Attorney, the brothels were operating under legal cover as massage parlors. The Hayward Police Department collaborated with multiple agencies at the local, state and federal levels on the investigation that lead to the arrests of the suspects and identification of over 40 women involved in commercial sex work at the brothels.

¹ Business Friendly Hayward Project: <https://www.hayward-ca.gov/your-government/departments/planning-division/business-friendly-hayward-project>

² <https://da.santaclaracounty.gov/operation-family-ties-das-human-trafficking-task-force-busts-brothel-network-worth-millions>

DISCUSSION

Massage establishments in Hayward are regulated through the Zoning Ordinance (Chapter 10, Article 1) and the Massage Permit Ordinance (Chapter 6, Article 10). Under current zoning regulations, massage businesses are allowed by right in the Downtown core,³ require a conditional use permit (CUP)⁴ in select commercial districts, and are prohibited in all other parts of the city.

The Massage Permit Ordinance⁵ requires massage establishment operators to obtain a permit issued by the Police Chief, subject to specific conditions such as background checks for all owners and employees, state certification for all massage therapists, and compliance with operational requirements. Failure to comply with the requirements of the Massage Permit Ordinance can lead to suspension or revocation of a massage permit.

The Hayward Police Department Vice Unit is responsible for enforcing the massage permit regulations. The unit is staffed with a detective and a sergeant who are responsible for reviewing massage permit applications, conducting background checks on applicants, investigating complaints, and initiating enforcement actions when necessary.

There are currently 17 permitted massage establishments in Hayward, with 10 of those establishments having complaints of illicit activity. One business recently had its massage permit revoked after an investigation revealed commercial sex activity taking place at the location. Additionally, the Police Department is aware of five unpermitted massage businesses in the city.

The combination of staffing challenges and suboptimal local regulatory tools increases the risk of bad operators who may be engaged in human trafficking and commercial sex work operating massage establishments in the city, which poses a significant threat to public health and safety. Adoption of a temporary moratorium would allow staff an opportunity to assess how the current set of regulations can be modified to prevent and deter bad actors while ensuring that legitimate massage establishments have an opportunity to operate and provide massage services within the city.

Staff is considering the following proposed updates to the Massage Ordinance:

- Requiring property owners who lease to massage businesses to provide a written acknowledgement to the City that they are aware of the nature of the business conducted by their lessee.

³ HMC Section 10-28.2.3.010, Downtown Use Table:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAMUCO_CH10PLZOSU_ART28DECO_ART10-28.2SPZO_DIV10-28.2.3USTA

⁴ HMC Section 10-1.3200, Conditional Use Permit:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAMUCO_CH10PLZOSU_ART1ZOOR_S1_0-1.3200COUSPE

⁵ HMC Chapter 6, Article 10, Massage Permit Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BU_PRTR_ART10MAPEOR

- Prohibiting use of sexually suggestive advertising related to massage services.
- Requiring a new permit application when a permitted massage businesses undergoes an ownership change.
- Changing duration of permit from two (2) years to one (1) year.

Environmental Review - Adoption of this Ordinance is exempt from environmental review as the adoption of this Ordinance does not qualify as a "project" pursuant to the California Environmental Quality Act ("CEQA"), under Public Resource Code Section 21065 and CEQA Guidelines Section 15320, 15378, and 15061(b) (3) as there is no possibility that such action would cause either a direct, or reasonably foreseeable indirect, physical change in the environment.

FISCAL IMPACT

The recommendations provided herein will have no additional fiscal impact.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the six priorities outlined in the Council's Strategic Roadmap.

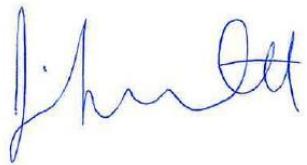
NEXT STEPS

If adopted by a 4/5 vote of the Council, the moratorium will be extended for a period of up to 10 months, 15 days. Updated regulations are tentatively scheduled to be brought to the Council for consideration in Spring 2026. Staff does not anticipate that the extended moratorium will last the entire 10 month, 15 day term. Consequently, the ordinance includes a provision that the moratorium will terminate automatically upon the effective date of the updated massage regulations.

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Approved by:

A handwritten signature in blue ink, appearing to read "Jennifer Ott".

Jennifer Ott, City Manager