

1 [Planning Code - Massage Establishments]

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3 **Ordinance amending the Planning Code to require that massage establishments, as**
 4 **defined, obtain a Conditional Use permit; listing exceptions to that requirement; and**
 5 **making findings of public necessity, convenience, and welfare under Planning Code,**
 6 **Section 302, and findings of consistency with the General Plan, and the eight priority**
 7 **policies of Planning Code, Section 101.1.**

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9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
 12 **Board amendment additions** are in double-underlined Arial font.
 13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 14 **Asterisks (* * * *)** indicate the omission of unchanged Code
 15 subsections or parts of tables.

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13 Be it ordained by the People of the City and County of San Francisco:

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14 Section 1. Findings.

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15 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
 16 ordinance will serve the public necessity, convenience and welfare, for the reasons set forth in
 17 Planning Commission Resolution No. _____, and incorporates such reasons by this
 18 reference thereto. A copy of said resolution is on file with the Clerk of the Board of
 19 Supervisors in File No. _____.

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20 (b) On _____, the Planning Commission, in Resolution No. _____,
 21 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 22 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
 23 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
 24 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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1 Section 2. The Planning Code is hereby amended by revising Sections 218.1, 303(o),
2 790.60, 890.60, 790.114, and 890.114 to read as follows:

3 **SEC. 218.1. MASSAGE ESTABLISHMENTS.**

4 (a) Definition. Massage establishments are defined by Section 29.5 ~~1900~~ of the ~~San~~
5 ~~Francisco~~ Health Code. Any massage establishment shall have first obtained a permit from the
6 Department of Public Health pursuant to Section 29.10 ~~1908~~ of the ~~San Francisco~~ Health Code,
7 or a letter from the Director of the Department of Public Health certifying that the establishment is
8 exempt from such a permit under Section 29.10(b).

9 (b) Controls. Massage establishments shall ~~generally~~ be subject to Conditional Use
10 authorization. Certain exceptions to the Conditional Use for accessory use massage are
11 described in subsection (c) below. When considering an application for a conditional use
12 permit pursuant to this subsection, the Planning Commission shall consider, in addition to the
13 criteria listed in Section 303(c), the additional criteria described in Section 303(o).

14 (c) Exceptions. Certain exceptions would allow a massage use to be "permitted"
15 without a Conditional Use authorization including:

16 (1) Certain Accessory Use Massage, provided that the massage use is
17 accessory to a principal use and the massage use is accessed by the principal use; and

18 (A) the principal use is a dwelling unit and the massage use conforms to
19 the requirements of Section 204.1, for accessory uses for dwelling units in R or NC districts;
20 or

21 (B) the principal use is a tourist hotel, as defined in Section 790.46 of
22 this Code, that contains 100 or more rooms; or

23 (C) the principal use is a large institution as defined in Section 790.50 of
24 this Code; or

1 (D) the principal use is a hospital or medical center, as defined in
 2 Section 790.44 of this Code.

3 (2) Chair Massage. The only massage service provided is chair massage, such
 4 service is visible to the public, and customers are fully-clothed at all times.

5 ~~(3) California State Certification. A State certified massage establishment, as defined~~
 6 ~~by Section 1900 of the San Francisco Health Code, that is a sole proprietorship, as defined in~~
 7 ~~California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is~~
 8 ~~certified pursuant to the California Business and Professions Code Section 4600 et seq., or one that~~
 9 ~~employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the~~
 10 ~~California Business and Professions Code Section 4600 et seq., shall be regulated as a "Medical~~
 11 ~~Service" use as defined by Section 790.114 or 890.114 provided that the massage establishment has~~
 12 ~~first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San~~
 13 ~~Francisco Health Code.~~

14 (d) Enforcement. Any massage establishment or exempted massage use found to be
 15 operating, conducted or maintained contrary to the provisions of this Code or the provisions of
 16 Health Code Article 29 shall be found to be operating in violation of the Code and will be
 17 subject to enforcement as provided in Section 176. No application or building permit to
 18 establish a massage establishment or exempted massage use will be accepted within one
 19 year after the subject property if is found operating in violation of the provisions of this Code.
 20 No new Massage Establishments shall be approved for one year at any sites that have been closed for
 21 violations of this Code, the Health Code, or any other law.

C-1	C-2	C-3- O	C-3- R	C-3- G	C-3- S	C-M	M-1	M-2	PDR- 1	PDR- 2	
											SEC. 218.1. MASSAGE ESTABLISHMENTS.

1	P	P	P	P	P	P	P	P	P	P	Certain Accessory Massage as defined above in 218.1(c)(1).
2	P	P	P	P	P	P	P	P	P	P	Chair Massage as defined above in 218.1(c)(2).
3											
4	C	C	C	C	C	C	C	C	C	C	All other massage. <i>If the massage use does not meet the definition of California State Certification per 218.1(c)(3) or the requirements of 218.1(c)(1) or 218.1(c)(2), above, then the massage use shall obtain a conditional use permit from the Planning Commission, pursuant to Section 303(e), and the additional criteria described in Sections 303(o) and 218.1(b) of this Code.</i>
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SEC. 303. CONDITIONAL USES.

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(o) Massage Establishments.

(1) With respect to Massage Establishments that are subject to Conditional Use authorization, as defined in Sections 218.1, 790.60, and 890.60 of this Code, in addition to the criteria set forth in Subsection (c) above, the Commission shall make the following findings:

(A) Whether the applicant has obtained, and maintains in good standing, a permit for a Massage Establishment from the Department of Public Health pursuant to Section ~~29.101908~~ of the ~~San Francisco~~ Health Code;

(B) Whether the use's facade is transparent and open to the public. Permanent transparency and openness are preferable. Elements that lend openness and transparency to a facade include:

1 (i) active street frontage of at least 25' in length where 75% of
2 that length is devoted to entrances to commercially used space or windows at the pedestrian
3 eye-level;

4 (ii) windows that use clear, untinted glass, except for decorative
5 or architectural accent;

6 (iii) any decorative railings or decorative grille work, other than
7 wire mesh, which is placed in front of or behind such windows, should be at least 75 percent
8 open to perpendicular view and no more than six feet in height above grade;

9 (C) Whether the use includes pedestrian-oriented lighting. Well lit
10 establishments where lighting is installed and maintained along all public rights-of-way
11 adjacent to the building with the massage use during the post-sunset hours of the massage
12 use are encouraged:

13 (D) Whether the use is reasonably oriented to facilitate public access.
14 Barriers that make entrance to the use more difficult than to an average service-provider in
15 the area are to be strongly discouraged. These include (but are not limited to) foyers equipped
16 with double doors that can be opened only from the inside and security cameras.

17 **SEC. 790.60. MASSAGE ESTABLISHMENT.**

18 (a) Definition. Massage establishments are defined by Section 29.5 1900 of the ~~San~~
19 ~~Francisco~~ Health Code. Any massage establishment shall have first obtained a permit from the
20 Department of Public Health pursuant to Section 29.10 1908 of the ~~San Francisco~~ Health Code,
21 or a letter from the Director of the Department of Public Health certifying that the establishment is
22 exempt from such a permit under Section 29.10(b).

23 (b) Controls. Massage establishments shall ~~generally~~ be subject to Conditional Use
24 authorization. Certain exceptions to the Conditional Use requirement for accessory use
25 massage are described in subsection (c) below. When considering an application for a

1 conditional use permit pursuant to this subsection, the Planning Commission shall consider, in
2 addition to the criteria listed in Section 303(c), the additional criteria described in Section
3 303(o).

4 (c) Exceptions. Certain exceptions would allow a massage use to be "permitted"
5 without a Conditional Use authorization including:

6 (1) Certain Accessory Use Massage, provided that the massage use is
7 accessory to a principal use; the massage use is accessed by the principal use; and

8 (A) the principal use is a dwelling unit and the massage use conforms to
9 the requirements of Section 204.1, for accessory uses for dwelling units in R or NC districts;

10 or

11 (B) the principal use is a tourist hotel as defined in Section 790.46 of this
12 Code, that contains 100 or more rooms,; or

13 (C) the principal use is a large institution as defined in Section 790.50 of
14 this Code,; or

15 (D) the principal use is a hospital or medical center, as defined in
16 Section 790.44 of this Code.

17 (2) Chair Massage. The only massage service provided is chair massage, such
18 service is visible to the public, and customers are fully-clothed at all times.

19 ~~(3) California State Certification. A State certified massage establishment, as defined~~
20 ~~by Section 1900 of the San Francisco Health Code, that is a sole proprietorship, as defined in~~
21 ~~California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is~~
22 ~~certified pursuant to the California Business and Professions Code Section 4600 et seq., or one that~~
23 ~~employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the~~
24 ~~California Business and Professions Code Section 4600 et seq., shall be regulated as a "Medical~~
25 ~~Service" use as defined by Section 790.114 or 890.114 provided that the massage establishment has~~

1 ~~first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San~~
2 ~~Francisco Health Code.~~

3 (d) Enforcement. Any massage establishment or exempted massage use found to be
4 operating, conducted or maintained contrary to the provisions of this Code or the Health Code
5 shall be found to be operating in violation of this Code and will be subject to enforcement as
6 provided in Section 176. No application or building permit to establish a massage
7 establishment or exempted massage use will be accepted within one year after the subject
8 property ~~if is~~ found operating in violation of the provisions of this Code. No new Massage
9 Establishments shall be approved for one year at any sites that have been closed for violations of this
10 Code, the Health Code, or any other law.

11 **SEC. 890.60. MESSAGE ESTABLISHMENT.**

12 (a) Definition. Massage establishments are defined by Section 29.5 ~~1900~~ of the ~~San~~
13 ~~Francisco~~ Health Code. Any massage establishment shall have first obtained a permit from the
14 Department of Public Health pursuant to Section 29.10 ~~1908~~ of the ~~San Francisco~~ Health Code,
15 or a letter from the Director of the Department of Public Health certifying that the establishment is
16 exempt from such a permit under Section 29.10(b).

17 (b) Controls. Massage establishments shall ~~generally~~ be subject to Conditional Use
18 authorization. Certain exceptions to the Conditional Use for accessory use massage are
19 described in subsection (c) below. When considering an application for a conditional use
20 permit pursuant to this subsection, the Planning Commission shall consider, in addition to the
21 criteria listed in Section 303(c), the additional criteria described in Section 303(o).

22 (c) Exceptions. Certain exceptions would allow a massage use to be "permitted"
23 without a Conditional Use authorization including:

24 (1) Certain Accessory Use Massage and provided that the massage use is
25 accessory to a principal use; the massage use is accessed by the principal use; and

1 (A) the principal use is a dwelling unit and the massage use conforms to
2 the requirements of Section 204.1, for accessory uses for dwelling units in R or NC districts;

3 or

4 (B) the principal use is a tourist hotel as defined in Section 790.46 of this
5 Code, that contains 100 or more rooms,; or

6 (C) the principal use is a large institution as defined in Section 790.50 of
7 this Code; or

8 (D) the principal use is a hospital or medical center, as defined in
9 Section 790.44 of this Code.

10 (2) Chair Massage. The only massage service provided is chair massage, such
11 service is visible to the public, and customers are fully-clothed at all times.

12 ~~(3) California State Certification. A State certified massage establishment, as defined~~
13 ~~by Section 1900 of the San Francisco Health Code, that is a sole proprietorship, as defined in~~
14 ~~California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is~~
15 ~~certified pursuant to the California Business and Professions Code Section 4600 et seq., or one that~~
16 ~~employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the~~
17 ~~California Business and Professions Code Section 4600 et seq., shall be regulated as a "Medical~~
18 ~~Service" use as defined by Section 790.114 or 890.114 provided that the massage establishment has~~
19 ~~first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San~~
20 ~~Francisco Health Code.~~

21 (d) Enforcement. Any massage establishment or exempted massage use found to be
22 operating, conducted or maintained contrary to the provisions of this Code or the Health Code
23 shall be found to be operating in violation of ~~the~~ this Code and will be subject to enforcement
24 as provided in Section 176. No application or building permit to establish a massage
25 establishment or exempted massage use will be accepted within one year after the subject

1 property ~~if is~~ found operating in violation of the provisions of this Code. No new Massage
2 Establishments shall be approved for one year at any sites that have been closed for violations of this
3 Code, the Health Code, or any other law.

4 **SEC. 790.114. SERVICE, MEDICAL.**

5 A retail use which provides medical and allied health services to the individual by
6 physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists,
7 chiropractors, or any other health-care professionals when licensed by a State-sanctioned
8 Board overseeing the provision of medically oriented services. It includes a clinic, primarily
9 providing outpatient care in medical, psychiatric or other health services, and not part of a
10 hospital or medical center, as defined in Section 790.44 of this Code. ~~It also includes a massage~~
11 ~~establishment, as defined by Section 1900 of the Health Code, that is a sole proprietorship, as defined~~
12 ~~in California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is~~
13 ~~certified pursuant to the California Business and Professions Code Section 4600 et seq., and one that~~
14 ~~employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the~~
15 ~~California Business and Professions Code Section 4600 et seq.~~

16 **SEC. 890.114. SERVICE, MEDICAL.**

17 A use, generally an office use, which provides medical and allied health services to the
18 individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists,
19 acupuncturists, chiropractors, or any other health-care professionals when licensed by a
20 State-sanctioned Board overseeing the provision of medically oriented services. It includes a
21 clinic, primarily providing outpatient care in medical, psychiatric or other health services, and
22 not part of a hospital or medical center, as defined in Section 890.44 of this Code. ~~It also~~
23 ~~includes a massage establishment, as defined by Section 1900 of the Health Code, that is a sole~~
24 ~~proprietorship, as defined in California Business and Professions Code Section 4612(b)(1), and where~~
25 ~~the sole proprietor is certified pursuant to the California Business and Professions Code Section 4600~~

1 ~~et seq., and one that employs or uses only persons certified by the state's Massage Therapy~~
2 ~~Organization, pursuant to the California Business and Professions Code Section 4600 et seq.~~

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4 Section 3. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

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9 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

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16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 ANDREA RUIZ-ESQUIDE
20 Deputy City Attorney

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