

LEGISLATIVE DIGEST
(Substituted 3/1/2016)

[Planning Code - Permitting Accessory Massage Uses with a Conditional Use Permit in the North of Market Residential Special Use District]

Ordinance amending the Planning Code to permit accessory massage uses, with a Conditional Use permit, in the North of Market Residential Special Use District; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings, including findings of public necessity, convenience, and welfare under Section 302 of the Planning Code, and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Existing Law

Massage establishments are defined in the Health Code as “fixed place[s] of business where more than one individual administers Massage for Compensation, excluding those locations where Massage is provided only on an outcall basis.” “Massage,” in turn, is defined in that Code as “any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft pads of the body with the hands or with the aid of any apparatus or appliance.” (See Health Code, Section 29.5.)

In June, 2015, the Board of Supervisors passed ordinances Nos. 0072-15 and 0073-15, which updated and standardized the regulation of Massage Establishments in the City. Pursuant to those ordinances, all Massage Establishments in the City require a Conditional Use permit from the Planning Commission, with limited exceptions.

The North of Market SUD was created in 1985, and has been amended several times. Its purpose is “to protect and enhance important housing resources in an area near downtown, conserve and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential nature of the area, and limit the number of commercial establishments which are not intended primarily for customers who are residents of the area.” (See Planning Code Section 249.5.)

Currently, in the North of Market Residential SUD, Massage Establishments which are “not incidental to Hospitals, Residential Care Facilities, Health Services, and Social Service or Philanthropic Facility uses or are not incidental to a health club, gymnasium or other facility with a regular membership or other facility which is used primarily for instruction and training

in body building, exercising, reducing, sports, dancing or other similar physical activities” are prohibited.

Amendments to Current Law

This Ordinance would amend the North of Market Residential SUD to permit Massage Uses as accessory uses to permitted Personal Service uses, provided that: (1) the Massage Use obtains a Conditional Use Authorization; (2) the Massage Use complies with the accessory use provisions of the Planning Code, and in no case the Massage Use occupy more than 1,000 square feet of occupied floor area of the Personal Service use; and (3) the Massage Use is functionally integrated into the operation of the Personal Service use, and cannot function independently of the Personal Service use, including having hours of operation that exceed those of the Personal Service use. In no case may the Massage Use operate during the hours between 10:00 pm and 7:00 am.

Personal Service uses are currently defined as “Retail Sales and Services Use[s] that provide[] grooming services to the individual, including salons, cosmetic services, tattoo parlors, and health spas, bathhouses, and steam rooms.” (See Planning Code, Section 102.) Under this definition, “Personal Service does not include Massage Establishments or Gym, which are defined separately in this Section.”

If this Ordinance is approved, Personal Services in the North of Market Residential SUD would be allowed to include accessory Massage uses; provided the conditions specified in the Ordinance, listed above, are met.

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