

FILE NO. 98-0520

ORDINANCE NO. 292-98

1 [Massage Establishments]

2 AMENDING PART II, CHAPTER II, OF THE SAN FRANCISCO MUNICIPAL CODE  
3 (PLANNING CODE) BY AMENDING SECTIONS 183, 209.8, 218.1 AND 249.5 TO PROHIBIT  
4 CERTAIN MASSAGE ESTABLISHMENTS IN THE NORTH OF MARKET RESIDENTIAL  
5 SPECIAL USE DISTRICT, TO DECREASE THE PERIOD OF PERMITTED  
6 DISCONTINUANCE OF AN EXISTING MASSAGE ESTABLISHMENT FROM SIX MONTHS  
7 TO THREE MONTHS, AND TO IMPOSE CONDITIONS UPON A CHANGE OF OWNERSHIP  
8 OR OPERATION OF EXISTING MASSAGE ESTABLISHMENT.

9 Note: Additions are underlined; deletions are in ((double parentheses)).

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

11 Section 1. Part II, Chapter II, of the San Francisco Municipal Code (Planning Code) is  
12 hereby amended by amending section 183, to read as follows:

13 **SEC. 183. NONCONFORMING USES: DISCONTINUANCE AND ABANDONMENT.**

14 Whenever a nonconforming use has been changed to a conforming use, or discontinued for a  
15 continuous period of three years, or whenever there is otherwise evident a clear intent on the  
16 part of the owner to abandon a nonconforming use, such use shall not after being so changed,  
17 discontinued or abandoned be reestablished, and the use of the property thereafter shall be in  
18 conformity with the use limitations of this Code for the district in which the property is located.

19 Where no enclosed building is involved, discontinuance of a nonconforming use for a period of  
20 six months shall constitute abandonment. Where a massage establishment is nonconforming  
21 for the reason that is within 1,000 feet of another such establishment under Section 218.1 of  
22 this Code or because it is no longer permitted within the District, discontinuance for a  
23 continuous period of three ((six)) months or change to a conforming use shall constitute  
24 abandonment.

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1 Section 2. Part II, Chapter II, of the San Francisco Municipal Code (Planning Code) is  
 2 hereby amended by amending Section 209.8, to read as follows:

RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3	RM-1	RM-2	RM-3	RM-4	RC-1	RC-2	RC-3	RC-4	
									P	NA	NA	NA	<b>SEC.209.8 COMMERCIAL ESTABLISHMENTS.</b> (a) <u>Except for massage establishments as noted in Section 218.1</u> , retail, personal service or other commercial establishment permitted as a principal use in a C-1 District, which is located within or below the ground story of a building: excluding any establishment designed primarily for customers arriving at that establishment by private motor vehicle.
									C	NA	NA	NA	(b) <u>Except for massage establishments as noted in Section 218.1</u> , retail, personal service or other commercial establishment permitted as a principal use in a C-1 District, which is located in a building above the ground story; excluding any establishment designed primarily for customers arriving at that establishment by private motor vehicle.
										P	P	P	(c) <u>Except for massage establishments as noted in Section 218.1</u> , retail, personal service or other commercial establishment permitted as a principal use in a C-2 District, which is located within or

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the institutional uses permitted in Sections 217(a) through (((c))) (d) or to the use by an individual member of the facilities of a health club, gymnasium or other facility with a regular membership which health club, gymnasium or other facility is used primarily for instruction and training in body building, exercising, reducing, sports dancing or similar physical activities; and further provided that: (b) the following standards and conditions are met: (1) the hours of operation of the massage activity shall be limited to from 7 <sup>12AM</sup> AM to ~~40PM~~ (2) signs announcing the massage activity shall be no more than a single sign affixed to the wall of the building and shall not exceed nine square feet in area and shall not be directly illuminated; (3) there shall be no outdoor activity associated with the massage activity (4) there shall be no alcoholic beverages served on the premises; (5) there shall be a litter patrol financed by the establishment such that any litter within 100 feet of the premises is cleaned and disposed of on a daily basis during the days the establishment is in operation; and (6) any change of ownership or change in operation of the massage establishment which requires a new

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Police Permit shall be required to meet these standards and conditions.

Sections 4. Part II, Chapter II, of the San Francisco Municipal Code (Planning Code) is hereby amended by amending Section 249.5, to read as follows:

**SEC.249.5. NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT. (a)**

General. A special use district entitled the "North of Market Residential Special Use District," which includes RC-4 and P Use Districts, the boundaries of which are shown on Sectional Map No. 1SU6 of the Zoning Map, is hereby established for the purposes set forth below.

(b) **Purposes.** In order 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 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, the following controls are imposed in the North of Market Residential Special Use District.

(c) **Controls.** The following zoning controls are applicable in the North of Market Residential Special Use District. Certain controls are set forth in other Sections of this Code and are referenced herein.

(1) **Conditional Use Criteria.** In Making determinations on applications for conditional use authorizations required for uses located within the North of Market Residential Special Use District, the City Planning Commission shall consider the purposes as set forth in Subsection (b) above, in addition to the criteria of Section 303(c) of this Code.

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1 (2) Notwithstanding the provisions of Section 209.8 of this Code, commercial  
2 establishments shall be limited to the ground floor and the first basement floor, except that  
3 such establishments may be permitted on the second story as a conditional use if authorized  
4 pursuant to Section 303 and Section 249.5(c)(1) of this Code.

5 (3) Garment shops that meet the qualifications set forth in Section 236(a) may be  
6 permitted on the ground floor and first basement floor as a conditional use if authorized  
7 pursuant to Section 303 and Section 249.5(c)(1) of this Code.

8 (4) The following uses are not permitted: (A) A hotel, inn, hostel or motel:(is not  
9 permitted)); and (B)Massage establishments which are not incidental to the institutional uses  
10 permitted in Sections 217 (a) through (d) of the Planning Code or are not incidental to a health  
11 club, gymnasium or other facility with a regular membership or other facility which is used  
12 primarily for instruction and training in body building, exercising, reducing, sports, dancing or  
13 other similar physical activities.

14 (5) In the portion of the area designated as Subarea No. 1 of the North of Market  
15 Residential Special Use District, as shown on Section Map 1SU of the Zoning Map, the density  
16 ratio shall be one dwelling unit for each 125 square feet of lot area; in Subarea No.2, as shown  
17 on Section Map 1Sub of the Zoning Map, the density ratio shall be one dwelling unit for each  
18 200 feet of lot area. The double density provisions of Section 209.1(m) shall not result in  
19 greater density than that permitted in an RC-4 District.

20 (6) Off-street parking requirements may be modified by the City Planning  
21 Commission, as provided in Section 161(h) of this Code.

22 (7) A bulk District "T" shall apply pursuant to the provisions of Section 270, Table  
23 270 of this Code.

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1 (8) Special exceptions to the 80 foot base height limit in height and bulk districts  
2 80-120-T and 8-130-T may be granted pursuant to the provisions of Section 263.7 of this  
3 Code.

4 (9) Building setbacks are required in this district pursuant to Section 132.2;  
5 provisions for exceptions are also set both in Section 132.2 of this Code.

6 (10) Exceptions to the rear yard requirements for an RC-4 District may be granted  
7 pursuant to Section 134(f) of this Code.

8 (11) Awnings, canopies and marquees, as defined in Sections 790.20, 790.58 of  
9 this Code, and further regulated by the Building Code and Sections 249.5(c)(12), 136.2 and  
10 607.4 of this Code are permitted.

11 (12) Signs located in the RC-4 portion of this district shall be regulated as provided  
12 in Section 607.4 of this Code.

13 (13) All provisions of the City Planning Code applicable in an RC-4 Use District shall  
14 apply within that portion of the district zoned RC-4, except as specifically provided above. All  
15 provisions of the City Planning Code applicable in a P Use district shall apply within that  
16 portion of the district zoned P, except as specifically provided above.

17 (14) All demolitions of buildings containing residential units shall be permitted if  
18 authorized as a conditional use under Section 303 of this Code, unless the Director  
19 ((Superintendent)) of the ((Bureau)) Department of Building Inspection or the Chief of the  
20 Bureau of Fire Prevention and Public Safety determines that the building is unsafe or  
21 dangerous and that demolition is the only feasible means to secure the public safety. When  
22 considering whether to grant a conditional use permit for the demolition, in lieu of the criteria  
23 set forth City Planning Code Section 303(c), consideration shall be given to the purposes of the  
24 North of Market Residential Special Use District set forth in Section 249.5(b), above, to the  
25 adverse impact on the public health, safety and general welfare due to the loss of existing

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1 housing stock in the district and to any unreasonable hardship to the applicant if the permit is  
2 denied. Demolition of residential hotel units shall also comply with the provisions of the  
3 Residential Hotel Ordinance.

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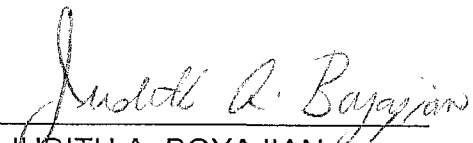
5 APPROVED AS TO FORM:

6 LOUISE H. RENNE, City Attorney

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By   
JUDITH A. BOYAJIAN  
Deputy City Attorney

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