



EXECUTIVE SUMMARY PLANNING CODE TEXT AMENDMENT

HEARING DATE: February 3, 2022

90-Day Deadline: March 8, 2022

Project Name: Massage Establishment Zoning Controls
Case Number: 2021-012566PCA [Board File No. 211263]
Initiated by: Supervisor Ronen / Introduced December 6, 2021
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Recommendation:	Approval
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Planning Code Amendment

Amendments in the Duplicate Ordinance

The proposed Ordinance would amend the Planning Code to allow Massage Use as an Accessory Use to Health Services.

Amendments in the Original Ordinance¹

The proposed Ordinance would amend the Planning Code to revise Massage Establishment zoning controls, including, among other things, to 1) add Sole Practitioner Massage Establishments to the definition of Health Services in Articles 1 and 8 and remove it from the definition of Massage Establishments; 2) regulate Massage Establishments generally consistent with Health Services, with some exceptions; 3) eliminate the three-month period to establish abandonment of certain nonconforming Massage Establishment uses; 4) prohibit Personal Services uses for three years at any location where a Massage Establishment use was closed due to a violation of the Planning Code or Health Code; 5) eliminate the exception from the conditional use authorization requirement for massage uses accessory to a dwelling unit; 6) rename Medical Services to Health Services in Article 8 and make other conforming amendments; and 7) delete related provisions that have expired through

¹ Board File 210381, which contains these amendments, became effective on January 21, 2022. The online Planning Code may not have been updated yet to reflect the changes made in that Ordinance.

the passage of time; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and general welfare findings pursuant to Planning Code, Section 302.

The Way It Is Now:

Massage Establishments are permitted as an Accessory Use to Hotel, Personal Service, and Institutional Uses.

The Way It Would Be:

In addition to Hotels, Personal Service, and Institutional Uses, Massage Establishments would also be permitted as an Accessory Use to a Health Service use.

Background

On April 13, 2021, Supervisor Ronen introduced [Board File 210381](#) that amended Massage Establishment zoning controls and regulated them more similarly to Health Services such as dentists, psychiatrists, chiropractors, and other licensed health care professionals. The Ordinance appeared in front of the Planning Commission on June 3, 2021, during which time the Commission unanimously recommended approval with staff modification.² At the Land Use and Transportation Committee hearing on December 6, 2021, Supervisor Peskin, at the request of Supervisor Ronen, duplicated the original file and included an amendment that would allow Massage Use as an Accessory Use to Health Services. Because this amendment was not considered by the Planning Commission on June 3, 2021, the duplicated Board File required rereferral to the Planning Commission for review and recommendation. Since Planning Commission has already considered all the other amendments in the attached Ordinance, only the amendment that allows Massage Establishments as accessory to Health Services is under consideration at this time.

Issues and Considerations

Massage Establishments versus Sole Practitioners

Massage Establishments and Sole Practitioners both provide massage services, but one of the key differences is business ownership. Massage Establishments employ Massage Practitioners, but the business owner may or may not be a Massage Practitioner. Sole Practitioners are self-employed and operate independently of any relationship to a Massage Establishment. Another difference relates to the number of permitted Massage Practitioners at any given location, which is unlimited for Massage Establishments and only up to two for Sole Practitioners.

² The Executive Summary for the original Ordinance is included as Exhibit C of this report.

Massage Establishments as an Accessory Use

Supervisor Ronen's original Ordinance (effective January 21, 2022) permitted Massage Establishments as an Accessory Use to Hotels and Personal Services on all floors. This Ordinance proposes a similar exception to allow Massage Establishments as an Accessory Use to Health Services, subject to underlying class of districts provisions such as square footage maximums. Some Health Services uses, including chiropractor or acupuncture offices, often staff Massage Practitioners. Without the proposed Ordinance, only Sole Practitioners would be permitted where Health Services are allowed.

General Plan Compliance

The proposed Ordinance builds on Supervisor Ronen's recent ordinance further aligning Massage Establishments with other Health Services. The Department of Public Health (DPH) would continue to review the business operations and licensing of Massage Establishments. Under this Ordinance, the Planning Code would still review Massage Establishments based on their land use and allow them as accessory to Health Services.

Racial and Social Equity Analysis

The Planning Code amendments in the proposed Ordinance further align Massage Establishments with other Health Services, such as dentists, psychiatrists, and chiropractors. The original Ordinance allowed exceptions for Hotels and Personal Services, but did not consider Health Services. The duplicate Ordinance remedies this by also allowing Massage Establishments as Accessory Use to Health Services. This treats Massage Practitioners more equitably by allowing them to operate within more compatible uses. Future Ordinances should consider eliminating the Conditional Use Authorization requirement for Massage Establishments altogether to make them more on par with other Health Services.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the overall goals of this Ordinance because it builds on previous efforts to make Massage Establishments more permissible throughout the city. This Ordinance would allow Massage Establishments as an Accessory Use to Health Services, such as dentists, psychiatrists, chiropractors, and other licensed health care professionals. This amendment is similar to how Massage Establishments are now permitted as Accessory Use to Hotels, Personal Services, and Institutional Uses.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15378 and 15060(c)(2) because they do not result in a physical change in the environment.

Public Comment

The Planning Department has received one letter of support from the Small Business Commission, sharing support for the amendment to allow Massages Establishments as an Accessory Use to Health Services.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 211263
- Exhibit C: Executive Summary for Case No. 2020-006112PCA, Board File No. 210381
- Exhibit D: Letter of Support