FILE NO. 210381

REVISED LEGISLATIVE DIGEST

(Amended in Committee, 12/6/2021)

[Planning Code - Massage Establishment Zoning Controls]

Ordinance amending 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 67) delete related provisions that have expired through 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.

Existing Law

Section 102 of the Planning Code[1] defines Sole Practitioner Massage Establishments as a type of Massage Establishment.

Section 202(a) provides that where a Massage Establishment is required to close as a result of a Planning Code or the Health Code violation, no new Massage Establishment may be approved at the site for three years.

Sections 102 and 145.4 refer to Medical Services.

Section 303(n) requires that when considering a conditional use authorization for a Massage Establishment, the Planning Commission shall consider whether the applicant has a permit from the Department of Public Health under Section 29.10 of the Health Code. Section 303 also excepts accessory use Massage Establishments located in "tourist hotels" with 100 or more rooms or located in accessory dwelling units from the conditional use authorization requirement.

Section 342.1 excludes massage uses from its definition of Medical Services.

Zoning tables in Articles 2, 7 and 8 generally require Massage Establishments to obtain conditional use authorization.

[1] All references to Code sections refer to the Planning Code unless otherwise stated.

Section 890.60 defines Solo Practitioner Massage Establishments as a type of Massage Establishment and exempts them from the conditional use requirement for Massage Establishments in Article 8 districts.

Section 890.114 defines the use category “Medical Service.”

Amendments to Current Law

The ordinance would amend Sections 102 and 890.60 to remove Sole Practitioner Massage Establishments from the definition of Massage Establishment, and would add them to the definition of Health Services.

The ordinance would also amend Sections 102 and 145.4 to replace outdated references to “Medical Services” with references to “Health Services.”

The ordinance would amend Section 202(a) to require that where a Massage Establishment is required to close as a result of a Planning Code or the Health Code violation, no new Massage Establishment or Personal Service may be approved at the site for three years.

The ordinance would amend Section 303(n) to delete whether a Massage Establishment holds a permit from the Department of Public Health under Section 29.10 of the Health Code from the factors for consideration of a conditional use authorization. It would also amend Section 303(n) to except Massage Establishments in all Hotels from otherwise an applicable conditional use authorization requirement, and would delete the exception from the conditional use authorization requirement for Massage Establishments in accessory dwelling units.

The ordinance would amend Section 342.1 to delete the provision excluding massage uses from its definition of Medical Services.

The ordinance would amend various zoning district controls in Articles 2, 7 and 8 to align zoning controls for Massage Establishments with existing zoning controls for Health Services in those districts, except that 1) Massage Establishments would be not permitted on the 3rd floor and above, and 2) Massage Establishments that are accessory to a Hotel or Personal Service would be principally permitted on all floors.

The ordinance would amend Section 890.114 to rename Medical Service to Health Service, and would make a conforming amendment to Section 890.28.

n:\legana\as2021\2000612\01542260.docx