

LEGISLATIVE DIGEST

[Planning Code - Massage Establishments]

Ordinance amending the Planning Code to require that massage establishments, as defined, obtain a Conditional Use permit; listing exceptions to that requirement; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302, 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 “a fixed place of business where more than one person engages in or carries on, or permits to be engaged in or carried on, the practice of massage.” “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 of the external soft pads of the body...”.

The Planning Code incorporates those definitions by reference, but distinguishes between two types of massage establishments. Those that are fully certified by the California Massage Therapy Organization, pursuant to the California Business and Professions Code Section 4600 et seq., are treated as “Medical Services” and are generally permitted uses. Those that are not fully certified under the state’s program, on the other hand, are treated as “Massage Establishments” and, with some exceptions, are required to obtain a Conditional Use permit (“CU”) from the Planning Commission.

Amendments to Current Law

This Ordinance would put an end to the distinction in the Planning Code between different types of massage establishments, treating all such establishments in the same way. It would require a CU from the Planning Commission for all massage establishments, with some exceptions. These exceptions are the same exceptions that exist currently in the Code:

- Circumstances in which the massage use is accessory to a principal use; the massage use is accessed by the principal use, and the principal use is either: a) a dwelling unit; b) a tourist hotel that contains 100 or more rooms; c) a large institution; or d) a hospital or medical center.
- Circumstances where the only massage service provided is chair massage, such service is visible to the public, and customers are fully-clothed at all times.

In both cases, the massage establishment would be a permitted use. In all other cases, the massage establishment would require a CU. The Ordinance preserves the additional criteria listed in Section 303(o), to guide the Planning Commission's consideration of a massage establishment's CU application.

Background Information

This Ordinance is a companion piece of legislation to another Ordinance amending the Health Code's regulation of massage establishments in the City. Those amendments are being introduced at the same time as this Ordinance – on December 16, 2014. Together, these two Ordinances seek to implement Assembly Bill No. 1147 ("A.B. 1147"), which was passed in September of 2014.

A.B. 1147 authorizes local governments to use their regulatory and land use authority to ensure the public's safety, reduce human trafficking, and enforce local standards for the operation of the business of massage therapy in the best interests of the affected community.

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