

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

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

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10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 151280 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On March 10, 2016, the Planning Commission, in Resolution No. 19587, adopted
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the
City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board
adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
Board of Supervisors in File No. 151280, and is incorporated herein by reference.

1 (c) On March 10, 2016, the Planning Commission, in Resolution No. 19587,
2 approved this legislation, recommended it for adoption by the Board of Supervisors, and
3 adopted findings that it will serve the public necessity, convenience, and welfare. Pursuant to
4 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
5 Resolution is on file with the Clerk of the Board of Supervisors in File No. 151280, and is
6 incorporated by reference herein.

7
8 Section 2. The Planning Code is hereby amended by revising Section 249.5, to read
9 as follows:

10 **SEC. 249.5. NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

11 (a) General. A special use district entitled the "North of Market Residential Special
12 Use District," which includes RC-4 and P Use Districts, the boundaries of which are shown on
13 Sectional Map No. SU01 of the Zoning Map of the City and County of San Francisco, is
14 hereby established for the purposes set forth below.

15 (b) Purposes. In order to protect and enhance important housing resources in an area
16 near downtown, conserve and upgrade existing low and moderate income housing stock,
17 preserve buildings of architectural and historic importance and preserve the existing scale of
18 development, maintain sunlight in public spaces, encourage new infill housing at a compatible
19 density, limit the development of tourist hotels and other commercial uses that could
20 adversely impact the residential nature of the area, and limit the number of commercial
21 establishments which are not intended primarily for customers who are residents of the area,
22 the following controls are imposed in the North of Market Residential Special Use District.

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

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

5 (2) Notwithstanding the Zoning Control Table for RC Districts found in Section
6 209.3 of this Code, commercial establishments shall be limited to the ground floor and the first
7 basement floor, except that such establishments may be permitted on the second story as a
8 conditional use if authorized pursuant to Section 303 and Section 249.5(c)(1) of this Code.

9 (3) The following uses are not permitted:

10 (A) A Hotel or Motel; and

11 (B) Massage Establishments which are not incidental to Hospitals,
12 Residential Care Facilities, Health Services, *Personal Services* and Social Service or
13 Philanthropic Facility uses or are not incidental to a health club, gymnasium or other facility
14 with a regular membership or other facility which is used primarily for instruction and training
15 in body building, exercising, reducing, sports, dancing or other similar physical activities. *For*
16 *those massage establishments incidental to Personal Services, the following shall apply:*

17 (i) the Massage Use shall obtain a Conditional Use Authorization
18 pursuant to Section 303(n) of this Code;

19 (ii) The Massage Use shall comply with the accessory use provisions
20 of Section 204.3 of this Code, except that in no case shall the Massage Use occupy more than 1,000
21 square feet of occupied floor area of the Personal Service use;

22 (iii) The Massage Use must be functionally integrated into the
23 operation of the Personal Service use and cannot function independently of the Personal Service use,
24 including having hours of operation that exceed those of the Personal Service use. In no case may the
25 Massage Use operate during the hours between 10:00 pm and 7:00 am.

1 (4) In the portion of the area designated as Subarea No. 1 of the North of Market
2 Residential Special Use District, as shown on Section Map No. SU01 of the Zoning Map, the
3 density ratio shall be one dwelling unit for each 125 square feet of lot area; in Subarea No. 2,
4 as shown on Section Map No. SU01 of the Zoning Map, the density ratio shall be one dwelling
5 unit for each 200 feet of lot area. The double density provision for Senior Housing, as defined
6 in Section 102, shall not result in greater density than that permitted in an RC-4 District.

7 (5) A bulk district "T" shall apply pursuant to the provisions of Section 270, Table 270
8 of this Code.

9 (6) Special exceptions to the 80-foot base height limit in height and bulk districts 80-
10 120-T and 80-130-T may be granted pursuant to the provisions of Section 263.7 of this Code.

11 (7) Building setbacks are required in this district pursuant to Section 132.2; provisions
12 for exceptions are also set forth in Section 132.2 of this Code.

13 (8) Exceptions to the rear yard requirements for an RC-4 District may be granted
14 pursuant to Section 134(g) of this Code.

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

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

1 District set forth in Section 249.5(b), above, to the adverse impact on the public health, safety
2 and general welfare due to the loss of existing housing stock in the district and to any
3 unreasonable hardship to the applicant if the permit is denied. Demolition of residential hotel
4 units shall also comply with the provisions of the Residential Hotel Ordinance.

5 * * * *

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7 Section 3. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor’s veto of the ordinance.

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12 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the “Note” that appears under
17 the official title of the ordinance.

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19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 ANDREA RUIZ-ESQUIDE
23 Deputy City Attorney

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