

**URGENCY ORDINANCE NO. 631-C.S.**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN GABRIEL, CALIFORNIA AMENDING SECTIONS 153.003 AND 153.162(G) OF THE SAN GABRIEL MUNICIPAL CODE RELATING TO THE DEFINITIONS OF HOTELS AND MOTELS AND SECTIONS 153.151 AND 153.242 RELATING TO MASSAGE ESTABLISHMENTS**

**WHEREAS**, in 2008 the California Legislature passed SB 731 which added a new Chapter 10.5 to the California Business and Professions Code which provided for the formation of the nonprofit California Massage Therapy Council to oversee a state-sanctioned program of voluntary certification for massage practitioners so that such persons could avoid being required to obtain local massage permits; and

**WHEREAS**, the Massage Therapy Act has been amended several times since its original enactment, including by AB 1147 and AB 2194 which, among other things, restored local land use control and extended the Massage Therapy Act's effective date through December 31, 2020; and

**WHEREAS**, prior to SB 731, the City required conditional use permits for massage establishments and at the time of SB 731's effective date the City had 32 massage establishments consisting of 10 full body massage establishments and 22 foot massage establishments; and

**WHEREAS**, at the time that land use authority was restored to the City, the number of full body massage establishments in the City had grown to 57; and

**WHEREAS**, as of January 1, 2017 the City had 54 massage establishments, 13 of which have a conditional use permit and another eight applications are pending; and

**WHEREAS**, the proliferation of massage establishments has had many negative impacts in the City including but not limited to:

- The proliferation of a type of business which has been tied to human trafficking;
- The proliferation of businesses which have been a front for prostitution activities, even when they have obtained all required City permits and certificates;
- An impact on City services due to the inordinate amount of time that Police, Neighborhood Improvement Services, and the Finance Department have had to spend in processing, inspecting, and policing such businesses as compared to other types of personal service businesses;
- Noise impacts on adjacent residential neighborhoods due to massage establishments being opened in the late evening hours;
- Parking impacts on adjacent residential neighborhoods due to the customers of massage establishments parking on local streets after normal working hours when people have returned home from work and need to utilize local residential street parking;
- Lighting impacts on adjacent residential neighborhoods due to spillover impacts from businesses;
- A loss of tax revenue to the City as commercial space has been overrun by massage establishments which do not provide sales tax to the City;
- A negative image of the City as the main commercial corridors are filled with massage establishments; and
- A lowering of residential property values as people do not desire to live near such establishments; and

**WHEREAS**, the number of massage establishments in the City is inconsistent with the City's General Plan as it interferes with the Land Use Goals of buffering development from neighbors (Goal 1.6) and improving Las Tunas and Valley Boulevards (Goals 1.11 and 1.12) and interferes with the Economic Goals of creating a vibrant business community (Goal 4.1), stopping sales tax leakage (Goal 4.2), and developing retail businesses to address community needs (Goal 4.3), all as more specifically set forth in the staff report; and

**WHEREAS**, the number of massage establishments that have located in the Valley Boulevard Specific Plan area is inconsistent with the synergy that was expected to be created in that area between various uses as more specifically set forth in the staff report; and

**WHEREAS**, the City has experienced problems with massage establishments being located in close proximity to each other as, during inspections, workers will run out the back door of a massage establishment and into the back door of an adjacent business, as well as problems with massage establishments trying to use a single Operator to manage a number of businesses that are next to each other; and

**WHEREAS**, the City Council believes that these problems can be addressed by imposing a distance limitation between massage establishments and between massage establishments and residential areas; and

**WHEREAS**, staff has determined that including the existing massage establishments with a conditional use permit, a total of 21 massage establishments can locate within the City with a 1,000 foot distance limitation between massage establishments and a 150 foot distance limitation from residential uses; and

**WHEREAS**, in reviewing the City's zoning provisions the City found that the general definitions of hotels and motels in Section 153.003 referred back to the definitions in the Adult Business chapter instead of to the definitions elsewhere in the San Gabriel Municipal Code; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on this Ordinance on January 23, 2017 at which time it recommended that the City Council adopt this Ordinance; and

**WHEREAS**, the City Council held a duly noticed public hearing on this Ordinance on April 18, 2017 at which time it considered all testimony, both written and oral; and

**WHEREAS**, the City Council desires to amend Chapter 153 of the San Gabriel Municipal Code and impose distance requirements between massage establishments and between massage establishments and residential uses in order to ameliorate the negative impacts of such businesses in order to protect the public as set forth in this Ordinance as well as revise the definitions of hotel and motel; and

**WHEREAS**, since the time of the Planning Commission hearing on January 23, 2017, the City has received \_\_\_ applications for CUPs. Two of these CUP applications have been granted and were appealed to the City Council. \_\_\_ CUP applications were denied (and how many on appeal – if any) and another \_\_\_ CUP applications are still waiting to be processed; and

**WHEREAS**, in accordance with Government Code section 36937, it is necessary for this Ordinance to take effect immediately so that the City is able to protect the public health, safety, and welfare of the public by immediately requiring the 1,000 foot distance between massage establishments and 150 foot buffer from residential uses. If this Ordinance were not enacted immediately massage establishments will continue to be processed under a standard which does not provide sufficient protection to the public;

**NOW, THEREFORE**, the City Council of the City of San Gabriel does hereby ordain as follows:

**SECTION 1.** Findings.

A. The City Council hereby finds that all of the Whereas clauses set forth above are true and correct statements of fact.

B. The City Council further finds that regulations imposed herein are required based on actual experiences in San Gabriel and not because of any belief by the City Council of San Gabriel that massage establishments are an adult-oriented business.

C. The City Council specifically finds and acknowledges that there is substantial research that indicates that the skillful practice of massage can and does provide many health benefits including relief from disease and injury and that massage can be a valuable component of a wellness program.

**SECTION 2.** The following definitions contained in Section 153.003 of the San Gabriel Municipal Code are hereby amended to read as follows:

**HOTEL.** See definition contained in § 153.162(G)(7) of this code.

**MOTEL.** See definition contained in § 153.162(G)(7) of this code.

**SECTION 3.** The use table contained in Section 153.151 of the San Gabriel Municipal Code is hereby amended by adding a cross reference to Section 153.242 of the San Gabriel Municipal Code for Massage Establishments.

Type of Use	Commercial		Light Manufacturing	Notes
	C-1	C-3	M-1	
<i>Personal Service Uses</i>				
Massage establishments, not otherwise subject to an exception under §122.03 of this Code.	C	C	X	*See Chapter 122 of the San Gabriel Municipal Code and Section 153.242 of this Chapter.

**SECTION 4.** The definition of Hotel contained in Section 153.162(G) is hereby amended to read as follows:

**HOTEL.** A building or group of buildings in which there are six or more guest rooms where lodging, with or without meals, is provided for compensation. A **HOTEL** may provide space for shops or stores within its confines as is otherwise permitted in the zone in which the hotel is located. Dining facilities are recognized as a normal appurtenant use in hotels in any zone in which hotels are permitted. A **HOTEL** shall include one or more amenities for guests, including but not limited to: business center; on-site dining; exercise facilities; meeting rooms; spa; pool; lounge areas; bars; sundry/gift shops. A **HOTEL** shall not include jails, hospitals, asylums, sanatoriums, rest homes, orphanages, prisons, detention homes, or similar buildings where human beings are housed and detained under legal restraint.

**SECTION 5.** Section 153.242 is hereby amended to read as follows:

**153.242 MASSAGE ESTABLISHMENT REQUIREMENTS**

In addition to the other requirements pertaining to Conditional Use Permits, the following provisions shall apply to applications for a massage establishment:

A. The application shall include a detailed floor plan drawn to scale showing: entrances; exits; windows; interior doors; restrooms; all other separately enclosed rooms with dimensions, including but not limited to closets, storerooms, break rooms, and changing rooms; and location of massage tables and chairs. The floor plan shall be in feet and inches and be labeled in English.

B. Unless a massage establishment has a valid conditional use permit prior to April 18, 2017, no massage establishment shall be located:

1. Within 1,000 feet of another massage establishment; or
2. Within 150 feet of the following zones: Single-Family Residence Zones (R-1), Limited Two-Family Residence Zones (R-1A); Low Density Multiple-Family Residence Zones (R-2), Multiple-Family Residence Zones (R-3), Residential Neighborhood Conservation Zones (RN/C), Villa Residential (R-1V), Grapevine Residential (R-2G), and Arroyo Residential (R-3A).

3. The distance requirements set forth in Subsections 1 and 2 above shall not apply to a massage establishment located within a hotel or to any massage business that is subject to a complete or partial exception pursuant to Section 122.03 of this Code.
- C. An application for a conditional use permit shall not be deemed complete until the owners and any identified manager(s) have obtained an Operator Permit.

**SECTION 6.** Uncodified provisions.

A. The distance requirements in Subsection B shall apply to all applications that are in process, including appeals.

B. Nothing herein changes the previous requirement that all massage establishments have until January 20, 2018 to apply for a conditional use permit. However, the earlier a CUP application is filed, the greater the chance that there will not be another massage establishment within 1,000 feet. Any lawfully existing massage establishment that is denied a CUP may remain in business until January 20, 2018.

**SECTION 7.** Impact on Valley Boulevard Specific Plan. The changes to the CUP requirements for massage establishments in the C-1 and C-3 zone will have corresponding changes to massage establishments in the Valley Boulevard Specific Plan which are conditionally allowed in the MU-T (Mixed-Use Transit Oriented Development), C-CT (Commercial Centers and Nodes), MU-C (Mixed-Use on Corridors), and MU-C/R (Mixed-Use, Commercial, or Multi-family Residential on Corridors) zones of the Valley Boulevard Specific Plan area.

**SECTION 8.** Impact on Mission District Specific Plan. The changes to the CUP requirements for massage establishments in the C-1 and C-3 zone will have corresponding changes to massage establishments in the Mission District Specific Plan which are conditionally allowed in the Mission District Village (MD) and Market Place (C-1M) zones of the Mission District Specific Plan area.

**SECTION 9.** This Ordinance is consistent with the City's General Plan, the Valley Boulevard Specific Plan and the Mission District Specific Plan and is necessary to protect the public health, safety and welfare from both the problematic massage establishments as well as the over proliferation of massage establishments in the City.

**SECTION 10.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

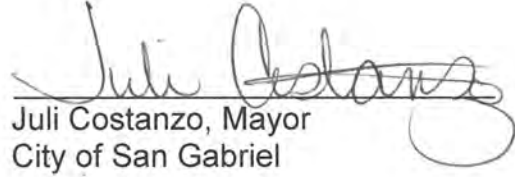
**SECTION 11.** Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be processed as required by law.

**SECTION 12.** This Ordinance is exempt from CEQA pursuant to section 15061(b)(3) under the general rule that CEQA does not apply to activities which can be seen with certainty to have no effect on the environment. Changing the regulations relating to Massage Establishments will not create any environmental impacts. Additionally, as a separate and independent ground, the Ordinance is further exempt from CEQA pursuant to section

15305 as a minor alteration to land use limitations: there is no area in which massage establishments are allowed which has a slope greater than 20% and the distance requirements for massage establishments do not result in any changes to land use or density.

**SECTION 13.** Effective Date. This ordinance shall become effective immediately. The need for the urgency is explained in the WHEREAS clauses above.

**PASSED, APPROVED, and ADOPTED** this 18<sup>th</sup> day of April, 2017 by the City Council of the City of San Gabriel, California.

  
Juli Costanzo, Mayor  
City of San Gabriel

ATTEST:

  
Julie Nguyen, City Clerk  
City of San Gabriel

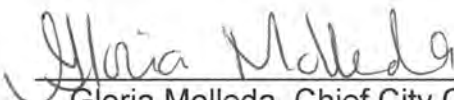
STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )  
CITY OF SAN GABRIEL         )

I, Gloria Molleda, Chief City Clerk of the City of San Gabriel DO HEREBY CERTIFY that foregoing Urgency Ordinance No. 631-C.S was duly passed and adopted by the City Council of the City of San Gabriel at their regular meeting held on April 18, 2017 by the following roll call vote, to wit:

AYES:        COUNCIL MEMBERS LIAO, MENCHACA, PU, MAYOR COSTANZO

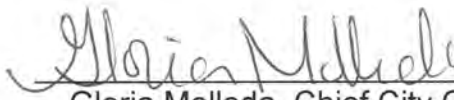
NOES:        NONE

ABSENT:     VICE MAYOR HARRINGTON

  
\_\_\_\_\_  
Gloria Molleda, Chief City Clerk

(SEAL)

The foregoing is the original of Urgency Ordinance No. 631-C.S. duly passed and adopted by the San Gabriel City Council at their regular meeting held on April 18, 2017.

  
\_\_\_\_\_  
Gloria Molleda, Chief City Clerk

(SEAL)