

URGENCY ORDINANCE NO.618-CS

**AN URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SAN GABRIEL, CALIFORNIA
AMENDING CHAPTER 153 OF THE SAN GABRIEL
MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS**

WHEREAS, there is substantial research that indicates that the skillful practice of massage can provide many health benefits including relief of pain from disease, injury and other sources, and that massage can be a valuable component of a wellness program; and

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 a nonprofit Massage Therapy Organization 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, in compliance with SB 731, the City of San Gabriel amended Chapter 122 of the San Gabriel Municipal Code; and

WHEREAS, SB 731 and the various amendments thereto essentially stripped the City of its ability to regulate massage establishments, including the location of such establishments; 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; and

WHEREAS, since the passage of SB 731 the City now has 54 massage establishments; and

WHEREAS, the proliferation of massage establishments without adequate regulations has had many negative impacts in the City including but not limited to: the proliferation of illicit businesses; an impact on City services due to the inordinate amount of time that Police, Neighborhood Improvement Services, and the Finance Department has 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; destruction of the synergy the City hoped to establish in various commercial areas between various uses, including the Valley Boulevard Specific Plan area, due to the large number of massage establishments; and a loss of tax revenue to the City as the commercial space has been overrun by massage establishments which do not provide sales tax to the City; 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, SB 731 had a sunset date of January 2, 2015; and

WHEREAS, in September 2014 the Legislature adopted AB 1147, amending the laws enacted by SB 731 and the various amendments thereto; and

WHEREAS, the purpose of AB 1147 was to restore much of the local control and land use authority to local governments which had been usurped by SB 731 and the various amendments thereto; and

WHEREAS, the City Council desires to amend Chapter 153 of the San Gabriel Municipal Code to restore limitations as to the zones in which massage establishments may be located and restore the requirement that massage establishments obtain a conditional use permit in order to ameliorate the negative impacts of such businesses in order to protect the public; and

WEHREAS, it is necessary for this Ordinance to take effect immediately so that the City has better tools to protect the public health, safety, and welfare from illicit businesses;

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

SECTION 1. The City Council hereby finds that all of the Whereas clauses set forth above are true and correct statements of fact.

SECTION 2. Section 153.003 of the San Gabriel Municipal Code is hereby amended by adding the definition of Massage and amending the personal care definitions to read as follows:

MASSAGE. Any method of treating the external parts of the body for remedial, health, hygienic, or relaxation purpose as further defined by Section 122.02 of the San Gabriel Municipal Code.

PERSONAL CARE FACILITY. A place where personal care services are performed by a personal care technician, including but not limited to beauty, hair, facial, and nail salons. Hair salons and barbershops that perform hair services exclusively are excluded. Personal care facility does not include a massage establishment as defined by Section 122.02 of the San Gabriel Municipal Code.

PERSONAL CARE SERVICE. Services that treat the skin, hands, feet, face, neck or hair. Also included is the treatment of any person with various lotions, sprays, creams, tonics, herbs or other similar substances for the purpose of reconditioning or improving the skin. Personal care services do not include massage services.

PERSONAL CARE TECHNICIAN. A person who receives compensation for performing any personal care service. These would not include doctors, chiropractors, acupuncturists, and licensed medical professionals. Personal care technician does not include a massage technician as defined by Section 122.02 of the San Gabriel Municipal Code.

SECTION 3. The use table contained in Section 153.151 of the San Gabriel Municipal Code is hereby amended by adding Massage Establishments as conditional uses in the C-1 and C-3 zones under *Personal Service Uses*, with a corresponding note to “*See Chapter 122 of the San Gabriel Municipal Code.”

<i>Type of Use</i>	<i>Commercial</i>		<i>Light Manufacturing</i>	<i>Notes</i>
	<i>C-1</i>	<i>C-3</i>	<i>M-1</i>	
<i>Personal Service Uses</i>				
Massage establishments	P C	P C	X	Must comply with Chapter 122. *See Chapter 122 of the San Gabriel Municipal Code. For purposes of considering a CUP the Planning Commission may take into account the number of other massage establishments in the vicinity as part of determining compatibility.

SECTION 4. Section 143.427 is hereby added to the San Gabriel Municipal Code to read as follows:

153.427 AMORTIZATION AND DISCONTINUANCE OF NONCONFORMING MASSAGE ESTABLISHMENTS

The provisions of Section 153.420 through 153.426 above shall apply to the amortization and discontinuance of nonconforming massage establishments, except to the extent they are modified by the provisions of this Section.

A. All massage establishments which have a valid Certificate of Operation under Chapter 122 of this Code prior to January 20, 2015 shall be required to obtain a conditional use permit no later than January 20, 2020.

B. Any massage establishment in operation on January 20, 2015 which had a conditional use permit prior to the adoption of Ordinance 591-C.S. on September 20, 2011 need not obtain a new conditional use permit and such conditional use permit shall be considered valid.

C. Discontinuation of use. A nonconforming massage establishment use shall terminate if it is discontinued for a period of 90 consecutive days.

SECTION 5. Impact on Valley Boulevard Specific Plan. The changes to the C-1 and C-3 zone will have corresponding changes to the uses in the Valley Boulevard Specific Plan area as follows: Massage establishments shall be permitted, subject to a conditional use permit, 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 6. 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 7. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be processed as required by law.

SECTION 8. 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.

SECTION 9. Urgency Ordinance. This ordinance shall become effective immediately upon passage in accordance with Government Code Section 36937 in order to protect the public peace, health, and safety. The need for this is to implement the return of local authority over Massage Establishments in order to better protect the public from illicit businesses.

Passed, approved, and adopted this 20th day of January, 2015.

JOHN R. HARRINGTON, MAYOR
CITY OF SAN GABRIEL

ATTEST:

ELEANOR K. ANDREWS, CITY CLERK

CITY OF SAN GABRIEL