

Council Meeting of
October 26, 2010

PUBLIC HEARING

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: Community Development – City Council consideration of an ORDINANCE extending a moratorium on the issuance of any permits or licenses for new massage and acupuncture establishments.
Expenditure: N/A.**

RECOMMENDATION

Recommendation of the Community Development Director that the City Council adopt an ORDINANCE extending a moratorium on the issuance of any permits or licenses for new massage and acupuncture establishments and approve an Ordinance Summary for publication.

Funding

Not applicable

BACKGROUND

On September 14, 2010, the City Council adopted an Interim Urgency Ordinance enacting a moratorium on the issuance of any permits and licenses for new massage and acupuncture establishments. This Interim Urgency Ordinance was effective for 45 days from its date adoption.

ANALYSIS

During the initial 45-day moratorium period, the Community Development Department has been evaluating means by which massage establishments can be regulated by the Land Use and Zoning Code to lessen the impacts on the community and suppress illicit activities. In order to regulate and help stem the proliferation of massage establishments, staff will be drafting an ordinance that will create zoning standards, land use entitlement procedures, and location standards/spacing requirements for massage businesses that will be brought forward to the City Council for consideration.

In accordance with California Government Code section 65858, the City Council after conducting a public hearing may adopt an Ordinance to extend the moratorium for an additional period of ten months and 15 days, to September 14, 2011. The Government

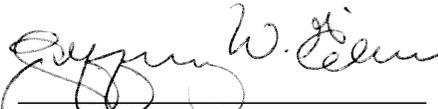
Code allows a second extension for an additional year. All extensions of the moratorium period require a four-fifths vote for passage. The additional period will allow staff time to prepare and bring forward a zoning ordinance regulating massage businesses for the Council's consideration that aims to protect the public welfare and help mitigate the deleterious effects of the illicit activities.

Notification of the moratorium and this public hearing was sent to all business owners of licensed massage and acupuncture establishments and to the property owners on which these businesses are located.

Respectfully submitted,

JEFFERY W. GIBSON
Community Development Director

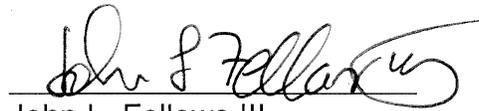
CONCUR:



Jeffery W. Gibson
Community Development Director

By 

Ted Semaan, Manager
Redevelopment & General Plan Division



John L. Fellows III
City Attorney



LeRoy J. Jackson
City Manager

- Attachments
- A. Ordinance
 - B. Ordinance Summary
 - C. Mayor's Script (**Limited Distribution**)

ORDINANCE NO. _____

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, EXTENDING A TEMPORARY MORATORIUM ON ISSUANCE OF BUSINESS LICENSES FOR MASSAGE AND ACUPUNCTURE ESTABLISHMENTS PURSUANT TO GOVERNMENT CODE SECTION 65858 AND SECTION 7 OF ARTICLE XI OF THE CALIFORNIA CONSTITUTION

THE CITY COUNCIL FOR THE CITY OF TORRANCE, CALIFORNIA

DOES ORDAIN AS FOLLOWS:

SECTION 1. The purpose of this Interim Urgency Ordinance is to extend a temporary moratorium on massage and acupuncture establishments in the City of Torrance ("City") to craft a more comprehensive approach to regulating massage or acupressure establishments and to avoid possible negative effects on the health, safety and welfare of the citizens of the City.

SECTION 2. The City Council enacts this Interim Urgency Ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution, Section 65858 of the California Government Code, and Torrance City Charter Section 726.

SECTION 3. Report of Actions Since Adoption of Ordinance No. 3728. As required by Government Code section 65858(d), on October 15, 2010, the City Council issued a report, a copy of which is found at Exhibit A, describing the measures taken to alleviate the conditions which lead to the adoption of Ordinance No. 3728.

SECTION 4. The City Council of the City of Torrance finds:

A. The City has received applications for the issuance of business licenses for massage and acupuncture establishments, building permits, land use, zoning and other

approvals for the establishment and/or conducting of massage and acupuncture establishments.

B. At the present time there are no zoning location standards as to where within the City massage and acupuncture establishments can appropriately be located.

C. Massage and acupuncture establishments are businesses that involve significant intimate contact between persons, which creates opportunities for acts of prostitution and other unlawful sexual activity to occur.

D. The establishment of reasonable zoning standards for the siting of massage and acupuncture establishments would serve to reduce the risk of illegal activity, and the City is currently studying revised zoning regulations to preserve the public health, safety and welfare.

F. There is a current and immediate threat to the public health, safety and welfare because, without the moratorium, additional massage and acupuncture establishments could be granted business licenses in locations close to sensitive receptors, or an overconcentration of massage and acupuncture establishments could occur within the City, without full protection to residential zones from the potential secondary effects of massage and acupuncture establishments.

SECTION 5. The purpose of this Interim Urgency Ordinance is to extend the existing moratorium for an additional 10 months and 15 days.

SECTION 6. The City Council enacts this Interim Urgency Ordinance by not less than a four-fifths vote, and in light of the findings set forth in Section 3 above, under the authority granted to it by Article XI, Section 7 of the California Constitution, Torrance City Charter section 726, and Section 65858(a) of the California Government

Code, each of which allows the City to adopt an interim urgency ordinance, in order to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a zoning proposal that the City Council, Planning Commission or the Community Development Department is considering or studying or intends to study within a reasonable time.

SECTION 7. The City Council finds and determines as follows:

A. The absence of adequate regulation on the location of massage and acupuncture establishments, constitutes an immediate threat to the public health, safety and welfare. The adoption of this Ordinance is necessary for the immediate protection of the public safety, health and welfare.

B. There have been documented cases of Torrance Municipal Code violations, lewd acts, and other inappropriate behavior by massage and acupuncture technicians at massage or acupressure establishments in the City.

C. Based on the foregoing, the City Council finds that issuing business licenses, building permits, or land use, zoning or other approvals which pertain to the establishment or conducting of massage and acupuncture establishments prior to the completion of the City of Torrance's study of the potential impact of such facilities, poses a current and immediate threat to the public health, safety and welfare and that therefore a temporary moratorium on the issuance of such business licenses, building permits, or land use, zoning or other approvals which pertain to the establishment or conducting of massage and acupuncture establishments is necessary.

D. A temporary moratorium is not placed on the issuance of renewals of currently valid business licenses.

SECTION 8. The City Council directs the Community Development Department, Finance Department, Fire Department and Police Department to consider and study possible means of regulating massage and acupuncture establishments, specifically including zoning-based regulations and other regulations.

SECTION 9. The City Council finds that this Interim Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060 (c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 10. If any provision of this Interim Urgency Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 11. This Interim Urgency Ordinance takes effect immediately upon its adoption by at least a four-fifths vote of the City Council. This Interim Urgency Ordinance will continue in effect for 10 months and 15 days from the date of its adoption and thereafter will be of no further force and effect unless, after notice and a hearing pursuant to California Government Code Section 65090, the City Council extends this interim urgency ordinance pursuant to Government Code Section 65858.

SECTION 12. The City Clerk shall certify the adoption of this Ordinance and shall cause a copy of same to be published in the official newspaper of said City within fifteen days of its adoption. This Ordinance shall be published once, with the names of the City Council members voting for and against it, in at least one newspaper of general circulation published in the City of Torrance, State of California.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2010.

Mayor of the City of Torrance

ATTEST:

City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Patrick Q. Sullivan
Assistant City Attorney

Exhibit A: Report

CITY OF TORRANCE

INTER-OFFICE COMMUNICATION

Date: October 15, 2010

TO: Honorable Mayor and Members of the City Council
(Via ~~LeRoy J. Jackson, City Manager~~)

FROM: Jeffery W. Gibson, Community Development Director

SUBJECT: Moratorium on Massage and Acupuncture Establishments

On September 14, 2010, the City Council adopted an Interim Urgency Ordinance enacting a moratorium on the issuance of any permits and licenses for new massage and acupuncture establishments. The moratorium has been in effect for a period of about 30 days from the date of adoption.

In accordance with Government Code Section 65858(d), a written report must be prepared by staff describing the measures taken or to be taken to alleviate the conditions that led to the moratorium. Between 2002 and 2010, there has been a significant increase in the number of massage therapy businesses and massage technicians licensed in the City and with this there has been a rise in problems (lewd conduct, prostitution, immoral massage) associated with massage establishments. In addition, the City has been experiencing similar types of problems with acupuncture establishments.

During the initial 45-day moratorium period, the Community Development Department has been evaluating means by which massage establishments can be regulated by the Land Use and Zoning Code to lessen the impacts on the community and suppress illicit activities. In order to regulate and help stem the proliferation of massage establishments, staff will be drafting an ordinance that will create zoning standards, land use entitlement procedures, and location standards/spacing requirements for massage businesses that will be brought forward to the City Council for consideration.

To help formulate zoning standards for massage establishments, a survey of 16 local cities' municipal codes was conducted to determine and compare how massage businesses are regulated. Through this survey, staff was able to ascertain what, if any, land use permits are required, the zones in which massage is permitted, and if separation requirements applied. Ten of the 16 cities surveyed required the approval of a conditional use permit or other land use entitlement to operate. Massage therapy provided as an ancillary service to a licensed medical or clinical practice, health or day spa, or personal service use typically did not require a conditional use permit. The cities of Cerritos and Long Beach classify massage parlors as sexually-oriented and adult

entertainment businesses respectively. Eight of the surveyed cities have minimum spacing requirements for massage facilities, ranging from 250 to 1,000 feet from a residential use or zone, public or private school, church, park, adult/sexually oriented business, and other massage establishment.

A map of the 87 existing licensed massage and acupuncture businesses was prepared to determine their proximity to other massage and acupuncture establishments and public and private schools. 66 establishments are within 500 feet of a public or private school or another massage or acupuncture facility. Nearly all massage and acupuncture businesses are located within 500 feet of a residential use. The greatest concentration of massage and acupuncture businesses are located along Hawthorne Boulevard and Sepulveda Boulevard.

On October 26, 2010, staff will be bringing forward an item for the Council's consideration to extend the moratorium for an additional period of ten months and 15 days. The additional moratorium period will allow staff time to prepare and bring forward a zoning ordinance regulating massage businesses that aims to protect the public welfare for the Council's consideration.

Respectfully submitted,

JEFFERY W. GIBSON

By 

Ted Semaan, Manager
Redevelopment & General Plan Division

CONCUR:



Jeffery W. Gibson
Community Development Director

Attachment:

1. Massage Survey
2. Massage & Acupuncture Establishment Map

Massage ordinances

City	CUP or Use permit	Zones permitted	Spacing Requirement	Distance from Specified Use	Notes
Arcadia	no CUP required in conjunction with a medical office, chiropractor, or personal service (day/health spa, beauty/hair/nail salon) only	Commercial zones	none		Each medical office or physical therapy office shall be limited to two (2) massage therapists per office or address, not per practitioner. Acupuncturists may not employ massage therapists or have massage therapists operate in their office. Ordinance initial language: Massage therapists may operate at (a) an established medical office, including, without limitation, an office of an acupuncturist or a physical therapist; and (b) a day spa or salon.
Burbank	CUP required	C-2, C-3, C-4, M-1, M-2	none		
Carson	CUP required	CN, CR, CG	determination made by Planning Commission	CUP can be denied by Planning Commission if within close proximity to any adult business or establishment selling alcohol for on-site consumption, including bars and taverns	
Cerritos	no CUP required for accessory use to a health studio, hotel, medical or chiropractic office	CR, CN	none		accessory use: no more than one thousand square feet of the gross floor area
Cerritos	massage parlor defined as sexually oriented business CUP required	MC-2	yes	500 feet from residential zone or use, religious institution or zoned property, school, park, youth club	
Culver City	no CUP required, massage therapy (licensed therapeutic) considered personal service	all commercial zones	none		
Gardena	no CUP required	C-2, C-3, C-4	yes	1000 ft from another massage establishment, school, bar or adult use	

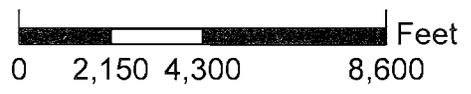
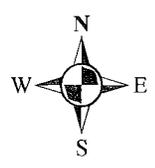
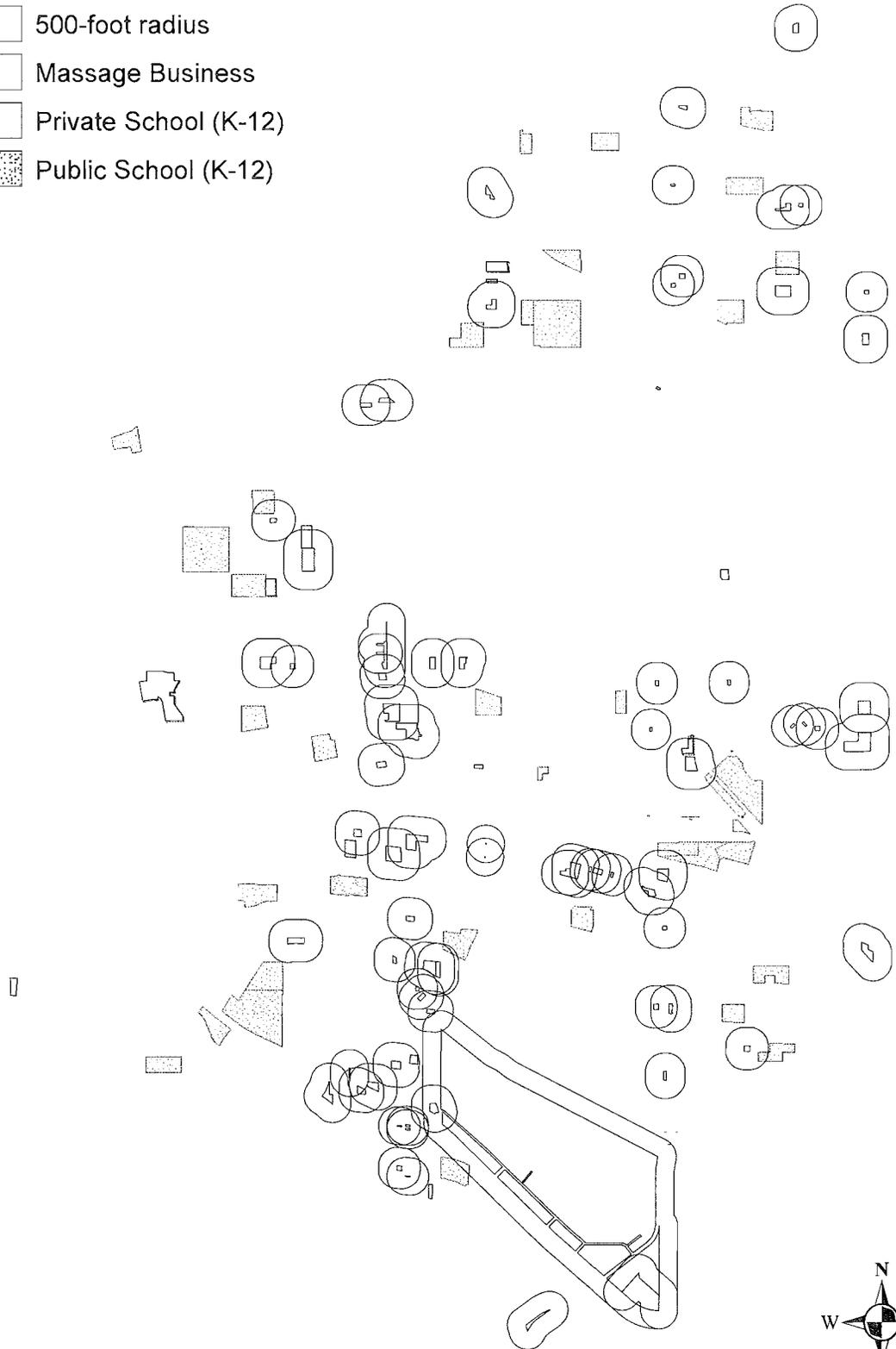
Glendale	CUP required	Mixed-use zone, C3	none	500 ft any R Zone, business with on-sale or off-sale alcoholic beverage license, 1000 ft from day care, public or private school, religious institution, hospital, public park, community facility utilized by minors, adult business	prohibited on any property proposing on-sale or off-sale alcoholic beverage license
Hawthorne	Unclassified Use Permit required	C-3	yes	500 ft another massage establishment, residence, recreation, park, civic facility, school	
Inglewood	Special Use Permit	R-M, M-1L, C-S, C-1, C-2	yes		
Long Beach	no CUP required for accessory use,	all commercial zones	none		accessory use for a physician, chiropractor, health club, beauty salon, or hotel over one hundred (100) rooms, special conditions apply,
Long Beach	massage parlor subject to Adult Entertainment standards	commercial, industrial zones	yes	300 ft from residential use or zone, 1000 ft from public or private school, 600 ft from park, 500 ft from church, 1000 ft. from another adult entertainment use	
Los Angeles	yes, Zoning administrator approval required	C2, C5, CM, M1, M2, M3	none		appeal rights to Area Planning Commission
Manhattan Beach	no CUP required	CL, CC, CG, CD, CNE	none		
Monterey Park	CUP required		none		massage allowed w/o CUP in conjunction with licensed medical practitioner, chiropractor, nursing home, electrolysis treatment & as incidental use to bona fide fitness center, hotels with over 100 rooms (incidental = less than 15% of floor area or 1,000 s.f. whichever is less)

Pasadena	CUP required	C-G, I-G	yes	250 ft. from residential district, 500 ft. another massage establishment, personal services restricted use, pawnshop or sexually oriented business	
Redondo Beach	no CUP required, massage/bodywork permit required	commercial zones	none		* "Adult use" shall include the following: Adult physical culture business. An establishment which offers or advertises massage, body rubs, or physical contact with specified anatomical areas whether or not licensed. Establishments which routinely provide medical services by State-licensed medical practitioners, electrolysis equipment, continuing instruction in martial or performing arts, instruction in organized athletic activities, or bath and massage businesses approved by the Council pursuant to Section 6-2.01 of Chapter 2 of Title 6 of this Code shall be excluded from the definition of adult physical culture establishments;
Redondo Beach	massage as defined under section 10-2.402 considered Adult use*, Adult Use Permit required	industrial zones	yes	300 ft. from residential zone, 500 ft. from religious institution, school, public park, 1000 ft from another adult use	
Santa Ana	CUP required, Land Use Certificate required for ancillary massage in conjunction with a retail or service use licensed by the State	Commercial zones excluding C-3 & any Professional zone	yes	1000 ft from another massage establishment, adult entertainment business	
Santa Monica	no CUP required, Operator's & Police Permit	determined by Zoning Administrator	none		

16 cities surveyed
 10 require a CUP or land use entitlement
 8 have separation requirements (250-1000 ft) from residential zones, schools, parks, and other massage establishments
 Arcadia only allows massage in conjunction with medical, chiropractor, or personal service
 Cerritos tiered: accessory use to health, medical or hotel no use permit required; massage parlor only allowed in industrially zones, CUP required & 500 ft. from residential, school, park, or church

Legend

-  500-foot radius
-  Massage Business
-  Private School (K-12)
-  Public School (K-12)



ORDINANCE NO. _____

SUMMARY

On _____, 2010, the City Council of the City of Torrance adopted Ordinance No. _____, which extended a temporary moratorium on the issuance of business licenses, building permits, or land use, zoning or other approvals which pertain to massage or acupuncture establishments. The Interim Urgency Ordinance took effect immediately upon its adoption. The Interim Urgency Ordinance shall continue in effect for 10 months and 15 days from the date of its adoption and shall thereafter be of no further force and effect unless, after notice and a hearing pursuant to California Government Code section 65090, the City Council extends this Interim Urgency Ordinance pursuant to Government Code section 65858.

*****City Clerk to add a paragraph stating that copies of the ordinance are available at the City Clerk's office and stating the names of the City Council members that voted in favor and those that voted against.*****

