



CITY OF ORLAND STAFF REPORT

MEETING DATE: September 19, 2024

TO: City of Orland Planning Commission

FROM: Scott Friend, AICP – City Planner

SUBJECT: Revise Title 8 to include standards for Massage Establishments.

SUMMARY:

On August 15, 2024, at the Planning Commission meeting, the Commission recommended staff to present an Ordinance that would regulate massage and/or bodywork establishments located within the City of Orland. Currently, massage and/or bodywork establishments are principally permitted businesses that do not have any practice specific regulations directly applicable to the practice. Although the State does not currently enforce any regulations for massage and/or bodywork establishments or massage and/or bodywork professionals, Government Code 51030 authorizes local governments to enact an ordinance that would regulate massage and/or bodywork businesses within their jurisdiction. The following is a discussion of the proposed ordinance that would provide standards for massage and/or bodywork establishments within the City of Orland.

DISCUSSION:

Massage establishments within the City are currently identified as principally permitted businesses within the *C-1: Neighborhood Commercial*, *C-2: Community Commercial*, and *DT-MU Downtown Mixed-Use* zoning districts. Massage establishments, like any authorized business in the City, must apply for a business license in order to operate. No additional certifications or standards are currently set in place for massage and/or bodywork establishments or massage and/or bodywork professionals to practice in the City.

Attachment A presents draft text for the purpose of establishing basic operational standards for the conduct of massage and/or bodywork businesses in the City. The draft Ordinance addresses basic operational considerations to include time, place and manner regulations (hours of operation, zoning district standards, etc.) as well as establishing basic health, hygiene, safety and advertising practices.

Massage and/or bodywork, as defined in the proposed Ordinance, refers to the manipulation of soft body tissues. The draft Ordinance targets massage and/or bodywork establishments regardless of where or how it is undertaken and regardless of whether the service is provided as a primary or accessory service.

Following a similar framework adopted in regional cities to include Redding and Anderson, the draft operational standards of the Ordinance include the setting of requirements for practice certification along with the establishment of hours of operation which align with the City of Orland's noise control ordinance (OMC 8.20).

The California Massage Therapy Council (CAMTC) certification process, outlined in the Massage Therapy Act (BPC section 4604), sets requirements for an applicant to successfully complete 500 hours of curricula in massage and related subjects from an accredited school. Once a competency assessment has been completed, the CAMTC may grant the applicant a certificate. The proposed Ordinance sets the requirement that all massage and/or bodywork establishments in Orland shall *only* employ massage and/or bodywork professionals who have obtained a CAMTC certificate.

Along with the requirements to identify certified massage and/or bodywork professionals, the proposed ordinance sets forth health and safety requirements to promote safety, hygiene and sanitation. Similarly, advertising practices are regulated in the proposed ordinance to restrict signs and advertising placed in windows and doors. The proposed ordinance restricts signs and advertisements to no more than thirty-three (33) percent of the square footage of the windows and or doors of a massage and/or bodywork establishment which mirrors the current advertisement standard for alcohol and tobacco retailers (OMC 8.22.040) in the City.

Consistent with the purpose of promoting safe, hygienic and sanitary business practices, the proposed Ordinance contains several exemptions. The proposed ordinance does not regulate the provisions of the massage ordinance by, or under the guidance of, barbers, cosmetologists, or to person licensed to practice any healing art as licensing and State regulations are currently in place for these professions within the Business and Professions Code. It does not regulate CAMTC certification at recognized schools of massage therapy as students enrolled at the school are in the process of obtaining their CATMC certificate to practice massage and/or bodywork. Allowances are made for massage and/or bodywork professionals who are currently practicing massage therapy at an existing massage and/or bodywork establishment to be exempt from the required CAMTC certification as a means to not hinder current business in Orland but to maintain cleanliness and safe practice standards for all massage and/or bodywork establishments in Orland.

Lastly, the proposed Ordinance aims to exempt massage and/or bodywork professionals from the CAMTC certification process when the massage and/or bodywork occurs at an athletic club, hospital, or nursing home. It is the intent of the Ordinance to provide for the orderly regulation of establishments providing massage therapy and/or bodywork services, but not to restrict therapy for patients or athletes suffering injury.

ENVIRONMENTAL DETERMINATION: None / Not Applicable

FISCAL IMPACTS: None / Not Applicable

RECOMMENDATIONS:

Staff requests that the Planning Commission consider the proposed Ordinance and recommend changes, if necessary. If no changes are considered necessary or if the proposed changes are minor in nature and can be addressed during the consideration of the matter, staff recommends that the Planning

Commission recommend for approval to the City Council, adoption of the draft Massage Ordinance (**Attachment A**) as presented.

Staff recommends that the Planning Commission utilize the following process for consideration of this matter:

1. Accept a presentation of the project by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project by the Planning Commission;
and
4. Motion and vote by the Planning Commission.

If the Planning Commission determines that it intends to recommend for approval the Municipal Code Amendment, staff presents the following motions for consideration:

I move that the Planning Commission recommend to the City Council for their approval Planning Commission Resolution #2022-XX recommending for approval to the City Council, the Municipal Code Amendment addressing massage and/or bodywork establishments as presented herein.

REFERENCES:

California Legislative Information. 2024. Business and Professions Code, Division 2, Chapter 10.5 Massage Therapy Act.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4600&lawCode=BPC.

California Legislative Information. 2024. Government Code, Division 1, Part 1, Chapter 6 Massage.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=51030.&nodeTreePath=6.1.1.10&lawCode=GOV .

ATTACHMENTS:

Attachment A. Massage Ordinance.

Attachment B. Planning Commission Resolution 2024-02 A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORLAND RECOMMENDING APPROVAL OF AN ORDINANCE TO THE CITY COUNCIL OF THE CITY OF ORLAND OF AN AMENDMENT TO TITLE 8, HEALTH AND SAFETY OF THE ORLAND MUNICIPAL CODE ADDRESSING THE REGULATION OF MASSAGE AND BODYWORK USES.

ATTACHMENT A

CITY OF ORLAND MUNICIPAL CODE AMENDMENTS

Proposed Amendments to Title 8 Health and Safety

8.44 MESSAGE ORDINANCE

8.44.01 – DEFINITIONS

“CAMTC” refers to the California Massage Therapy Council pursuant to Section 4600 et. seq. of the California Business and Professions Code.

“Massage” or “Massage therapy” means the manipulation of soft body tissues. Massage therapy does not include any service or procedure for which a license to practice medicine, chiropractic, physical therapy, acupuncture, or podiatry is required by law.

“Massage and/or Bodywork establishment” means any individual, business, firm, association, partnership, sole proprietor, corporation, or combination thereof engages in, conducts, carries on or permits to be engaged in massage therapy. Massage establishments shall include businesses where massage therapy is provided as an accessory service such as gyms, day spas and professional offices.

“Massage professional” shall mean any person who administers massage and/or bodywork services to another person who is employed or retained by a massage and/or bodywork establishment.

“Owner” means any living person or persons, firm, joint venture, association, co-partnership, limited partnership, general partnership, corporation, or any combination thereof, who has any interest, legal or equitable, in any massage and/or bodywork establishment.

8.44.02 – OPERATING REQUIREMENTS

No massage and/or bodywork establishment shall engage in, conduct, or permit any massage and/or bodywork at or on behalf of the massage and/or bodywork establishment unless all of the following requirements are met:

- A. Except when permitted in writing, massages and/or bodywork shall be given only between the hours of seven a.m. and ten p.m. A massage and/or bodywork commenced prior to ten p.m. must terminate at ten p.m., and in the case of a massage and/or bodywork establishment, all clients shall exit the premises at that time.
- B. Massage and/or bodywork establishments shall not employ or retain any person under eighteen years of age to perform any massage service.
- C. Massages and/or bodywork shall not be provided by any person not certified by the CAMTC unless the individual has a valid, approved background investigation on file with the Orland police department.
- D. A massage and/or bodywork professional shall operate only under the name provided to the Orland police department for the background check and as shown on their CAMTC certificate. A massage and/or bodywork establishment shall operate only under the name specified on its business license.

8.44.03 – HEALTH AND SAFETY REQUIREMENTS

- A. Massage and/or bodywork establishments shall be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Towels and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one client.
- B. All instruments used in massage and/or bodywork shall be maintained in a clean and sanitary condition. Instruments utilized in providing massage and/or bodywork shall not be used on more than one client unless they have been sterilized or sanitized.
- C. Equipment shall be cleaned and wiped between each client.

8.44.04 – ADVERTISING PRACTICES

- A. No more than thirty-three (33) percent of the square footage of the windows and clear doors of a massage and/or bodywork establishment shall bear advertising or signs of any sort.
- B. All light-emitting signs on the massage establishment premises shall be illuminated only during the hours of operation. All light-emitting signs shall be turned off no later than ten p.m.

8.44.05 – EXEMPTIONS

This chapter shall not apply to the following:

- A. Barber or cosmetologists operating barbering or cosmetology businesses pursuant to the applicable license or certificate issued by the state;
- B. Athletic clubs, if the massage therapy services are provided at the athletic facility or events only;
- C. Hospitals, nursing homes, and other state-licensed health care facilities;
- D. Recognized schools of massage therapy shall be exempt from the CAMTC certification requirement stated in 8.44.02 of this chapter; or
- E. Massage professionals practicing at existing massage establishments as of the date of the adoption of this Ordinance shall be exempt from the CAMTC certification requirement stated in 8.44.02 of this chapter.

8.44.06 – INSPECTION

- A. For the sole purpose of inspecting and verifying compliance with this chapter and otherwise facilitating the functions of this chapter, the city manager, or his/her designee, and/or the Orland police chief, or his/her designee, is authorized to enter massage and/or bodywork establishments to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.
- B. Prior to inspection, city personnel shall inform those present at the massage and/or bodywork establishment that inspection is made pursuant to this chapter.

8.44.07 – ENFORCEMENT, PENALTIES AND NUISANCE PER SE

- A. For the purpose of enforcing the requirements of this chapter, the owner shall be responsible for the conduct of all massage and/or bodywork establishment professionals, employees, agents, independent contractors, or other representatives, while such persons are on the premises of the massage and/or bodywork establishment or providing out-call massage services on behalf of the massage and/or bodywork establishment.
- B. A violation of any provision of this chapter constitutes a public nuisance.

C. Shall unlawful activity occur or evidence be presented at a massage and/or bodywork establishment, Orland Police Department are permitted to intervene and investigate.

PLANNING COMMISSION RESOLUTION NO. 2024-03

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORLAND
RECOMMENDING APPROVAL OF AN ORDINANCE TO THE CITY COUNCIL OF
THE CITY OF ORLAND OF AN AMENDMENT TO TITLE 8, HEALTH AND SAFETY
OF THE ORLAND MUNICIPAL CODE ADDRESSING THE REGULATION OF
MESSAGE AND BODYWORK USES.**

WHEREAS, the Planning Commission of the City of Orland has proposed an amendment to Title 8, *Health and Safety*, of the City of Orland Municipal Code to incorporate provisions as new Chapter 8.44, *Massage*, to regulate massage and/or bodywork establishments in the city of Orland; and

WHEREAS, the Government Code 51030 authorizes local governments to enact an ordinance that would regulate massage and/or bodywork businesses within their jurisdiction; and

WHEREAS, the Orland Municipal Code does not contain any regulations or provisions addressing establishments involved in the provision of massage or bodywork services; and

WHEREAS, the creation of an Ordinance addressing massage and/or bodywork establishments into the City of Orland Municipal Code would establish operational, health and safety, and advertising standards for massage and/or bodywork establishments in the city of Orland; and

WHEREAS, following the advertisement of the matter in the newspaper of general circulation as required by the Orland Municipal Code and State Government Code, the Planning Commission held a duly noticed public hearing on the proposed amendments to Title 8, *Health and Safety*, in order to provide the community and interested parties the opportunity to comment on the proposed amendments; and

WHEREAS, the Planning Commission of the City of Orland, California held a duly noticed Public Hearing to consider the matter at its regular meeting of September 19th, 2024, as provided by law; and

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Orland does hereby recommend to the City Council of the City of Orland, approval of Ordinance 2024-03 regarding the placement of new regulations into the Orland Municipal Code addressing massage and/or bodywork services.

Attachment B

The foregoing resolution was passed and adopted at a regular adjourned meeting of the Orland Planning Commission held on **September 19th, 2024** by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT OR NOT VOTING:

Stephen Nordbye
City of Orland Planning Commission Chairman

Jennifer Schmitke
City Clerk