

City Council Meeting: June 11, 2024

Santa Monica, California

ORDINANCE NUMBER 2781 (CCS)

(City Council Series)

AN EMERGENCY INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 9.31.230 TO REMOVE THE MINOR USE PERMIT, LOCATION, AND FACILITY REQUIREMENTS FOR MASSAGE ESTABLISHMENTS FROM THE PERSONAL SERVICE USE STANDARDS FOR SPECIFIC USES AND ACTIVITIES

WHEREAS, Santa Monica Municipal Code (SMMC) Section 6.104.010 defines a massage establishment as a business where any individual, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on, or permits to be engaged in or conducted, for money or other consideration, massage or health treatments involving massages; and

WHEREAS, SMMC 6.104.010's broad definition of massage establishment includes those businesses that provide massage accessory to their principal use, such as aromatherapists, beauty salons, health clubs, beach clubs, skin care salons, acupuncturists, chiropractic offices, and day spas; and

WHEREAS, Section 6.104.020 requires that all massage establishments obtain a Massage Operator Permit, which is reviewed by the Police Department and issued by the City's Finance Department; and

WHEREAS, Section 6.104.090 also details a variety of physical and operating requirements for all massage establishments and massage technicians to ensure reasonable health and safety standards; and

WHEREAS, a massage use is considered a "Personal Services" land use and is subject to specific use standards contained in SMMC Section 9.31.230; and

WHEREAS, these standards include limiting hours of operation between 7:00 AM and 10:00 PM, prohibiting massage establishments from being established or located within 500 feet of another massage establishment, and requiring both a Massage Operator's Permit and a Minor Use Permit (MUP); and

WHEREAS, approval of a MUP requires discretionary review by the City's Zoning Administrator at a public hearing involving an overall process that can take an average of 3 to 4 months with an application fee of approximately \$7,400; and

WHEREAS, recent massage establishment applicants have had their business licenses denied due to their proximity within 500 feet of other massage establishments, including those that only offer minor accessory massage services as a part of a different primary use, such as a fitness center; and

WHEREAS, recent applicants proposing to establish ancillary massage services within hotels have also been informed that due to the proximity of another massage establishment within 500 feet, massage services would not be permitted within the hotel even though such a use is a common hotel amenity; and

WHEREAS, the City of Santa Monica has long served as a local, regional, national, and international destination, attractive for its blend of retail, dining, services, and entertainment; and

WHEREAS, on March 13, 2020, the City Manager, as the Director of Emergency Services ("Director of Emergency Services"), proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and effectuate the City's response to the novel coronavirus

(“COVID-19”), and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements (the “Executive Order”)’ and

WHEREAS, on March 16, 2020, the Director of Emergency Services issued a Third Supplement to the Executive Order, requiring the closure of a wide range of businesses including bars, nightclubs, on-premises restaurant service, movie theatres, live performance venues, gyms, fitness centers, spas, hair salons, nail salons, and massage parlors; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20 directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its earlier March 16, 2020 Order, closing all nonessential businesses, and limiting gatherings to 9 people or less; and

WHEREAS, after March 19, 2020, the Los Angeles Department of Public Health, on multiple occasions, amended and modified its Health Officer Order, recognizing the issues posed by community transmission of COVID-19 in Los Angeles County, and, in response, maintaining public health measures that have, at differing times, included strict limitations on public gatherings, required closures of certain businesses, and strict limitations and protocols for the operations of businesses permitted to remain open; and

WHEREAS, as of March 31, 2023, the local, state, and federal COVID-19 emergency declarations have concluded; and

WHEREAS, although the emergency orders have been lifted, the economic impacts of the COVID-19 closures of, and limitations on, businesses have been and continue to be devastating to the local Santa Monica economy; and various locations are continuing to experience economic uncertainty; and

WHEREAS, as the commercial and economic landscape evolves, the City's economic recovery and competitive advantage will depend on its ability to deliver on a diverse range of unique dining, retail, entertainment, and business uses; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, the City's economic recovery after the COVID-19 pandemic has been difficult for many segments of the economy, and Santa Monica's commercial districts are experiencing vacancy rates that remain higher than prior to the pandemic, especially in the Downtown area; and

WHEREAS, allowing eligible businesses the flexibility to engage in a variety of uses will facilitate business recovery and generate increased sales tax revenue for the City; and

WHEREAS, the Council, staff, and community stakeholders continue to be concerned about the health and vitality of Santa Monica's commercial districts; and

WHEREAS, massage establishments are represented by a variety of different types of uses with massage services usually offered as an accessory use to a different primary use such as a hotel, fitness center, day spa, or medical office; and

WHEREAS, the proposed amendments in this Emergency Interim Zoning Ordinance include removing the MUP, location, and facility requirements from SMMC Section 9.31.230, Personal Service; and

WHEREAS, a massage use is classified in the Zoning Ordinance as a General Personal Service use which, along with Physical Training and Tattoo or Body Modification Parlor uses, are sub-classifications of a Personal Services use; and

WHEREAS, similar to Council's approval of amendments to the Zoning Ordinance in 2021 to remove the MUP requirement for Tattoo or Body Modification Parlor uses, the proposed removal of the MUP requirement for massage establishments would increase flexibility of these uses and opportunities for economic recovery by removing a public hearing requirement; and

WHEREAS, removal of the location requirement of a minimum 500 feet between massage establishments would enable additional personal service uses in Santa Monica and would not likely result in an over concentration of such uses; and

WHEREAS, the facility requirements are already contained in SMMC Section 6.104.090 and are not necessary in SMMC Section 9.31.230; and

WHEREAS, the various physical and operational regulations in Chapter 6.104 ensure that massage establishments are well regulated to prevent any illicit activities and to ensure compliance with applicable health and safety measures; and

WHEREAS, the proposed modifications to the Personal Service use standards would support the City's role as a visitor destination by encouraging uses that appeal to both locals and tourists and would maintain and increase locally based, independent, small personal service uses in the City's commercial districts; and

WHEREAS, the proposed modifications would create the opportunity for additional personal service uses while maintaining appropriate health and safety measures; and

WHEREAS, the proposed amendments in the interim zoning ordinance support local business retention and promote new business opportunities in the City, addressing the needs of the business community and residents, and supporting small businesses by clarifying and simplifying land use requirements; and

WHEREAS, the City Council finds and declares that a current and immediate threat to the public health, safety, and general welfare exists due to the devastating impact the COVID-19-mandated closures and limitations have had on the local economy, such that continuing to impose the distance and MUP requirements, which are required in order to comply with the current regulations, would result in a threat to public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 9.31.230 is hereby amended to read as follows:

§ 9.31.230 Personal Service

The following Personal Services shall be located, developed, and operated in compliance with the following standards:

A. Hours of Operation. Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m. unless otherwise specified.

B. Massage Establishments. Massage establishments, including massage establishments conducted as Accessory Uses, are subject to the requirements listed above, Municipal Code Chapter **6.104**, Massage Regulations, and the following standards.

~~1. **Permits Required.** A Minor Use Permit pursuant to Chapter 9.41, Minor Use Permits & Conditional Use Permits, and a Massage Service Permit pursuant to Chapter 6.104 of the Municipal Code isare required.~~

~~2. **Location.** No such business shall be established or located within 500 feet from any other Massage Establishment.~~

~~3. **Facility Requirements.** Every massage establishment shall maintain facilities meeting the following requirements:~~

~~a. Minimum lighting shall be provided in accordance with the National Electrical Code, and, in addition, at least one artificial light of not less than forty watts shall be provided in each room or enclosure where massage services are performed on patrons.~~

~~b. Minimum ventilation shall be provided in accordance with the Uniform Building Code.~~

~~c. Hot and cold running water shall be provided at all times.~~

~~d. Closed cabinets shall be provided for storage of clean linens.~~

~~e. Adequate dressing, locker, and toilet facilities shall be provided for patrons.~~

~~f. A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin.~~

2.4. Accessory Uses. A massage establishment which functions as an accessory use shall also comply with all requirements for the primary use.

C. Tattoo or Body Modification Parlor.

1. Purpose and Intent. It is the purpose and intent of this Section to regulate the operation of facilities that perform tattooing and body modification to provide for the health, safety and welfare of the public and ensure compliance with California **Health and Safety Code** Section 119300 et seq.

2. Registration Required. Any person who is engaged in the business of tattooing or body modification shall provide evidence of registration with the Los Angeles County Department of Health and City code.

3. No Persons Under 18. A sign shall be posted on the door or in view of the entrance stating that no person under the age of 18 is allowed on site, unless accompanied by their parent or legal guardian.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

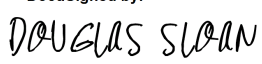
SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective immediately upon adoption. Pursuant to Sections 615 and 619 of the City Charter, and Section 9.46.090 of the Municipal Code, for the reasons stated in the recitals above, the staff report accompanying this ordinance, oral and written testimony received by the City Council, and City Council discussion, the City Council declares this ordinance to be necessary as an emergency measure for preserving the public peace, health, and safety, with the result that this ordinance shall be introduced and adopted at the same meeting and shall become effective immediately upon its adoption.


SECTION 5. This Ordinance shall be of no further force and effect sixty days from its effective date, unless it is otherwise extended pursuant to Santa Monica Municipal Code Section 9.46.090(C).

APPROVED AS TO FORM:

DocuSigned by:

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Douglas Sloan, City Attorney

Approved and adopted this 11th day of June, 2024.

DocuSigned by:

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Phil Brock, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)


I, Nikima S. Newsome, Interim City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2781 (CCS) had its introduction and adoption at the Santa Monica City Council meeting held on June 11, 2024, by the following vote:

AYES: Councilmembers Torosis, Davis, Parra, Zwick,
Mayor Pro Tem Negrete, Mayor Brock

NOES: None

ABSENT: Councilmember de la Torre

ATTEST:

DocuSigned by:

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Nikima S. Newsome, Interim City Clerk

6/12/2024

Date

A summary of Ordinance No. 2781 (CCS) was duly published pursuant to California Government Code Section 40806.