



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



Date: January 6, 2014
Board Meeting Date: February 11, 2014
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Greg Munks, Sheriff
Jean S. Fraser, Chief, Health System

Subject: Massage Businesses Ordinance

RECOMMENDATION:

Introduction of an ordinance amending Sections 5.44.040, 5.44.050, 5.44.070, 5.44.080, 5.44.100 and 5.44.110 of Chapter 5.44 (Massage Businesses) of Title 5 (Business Regulations) of the San Mateo County Ordinance Code, relating to the regulation of massage businesses and waiver of reading the ordinance in its entirety.

BACKGROUND:

The Governor signed SB 731 on September 27, 2008, and AB 619 on August 4, 2011, which respectively adopted and amended Section 4600 et seq. of the California Business and Professions Code. The legislation was intended to protect individuals who receive massages, protect communities from prostitution and illicit activities, and facilitate legitimate massage by centralizing regulation and permitting.

Pursuant to the legislation, massage providers may voluntarily apply for and receive a certificate from the State's California Massage Therapy Council (CAMTC). Once an individual obtains a CAMTC certificate, he or she is able to practice in any city or county without being required to obtain a local license or permit. Similarly, a massage business that uses only CAMTC-certified massage practitioners is not required to obtain a separate local license or permit.

The County retains oversight of health and safety regulations by requiring registration by practitioners and businesses with the County. The County also retains the ability to require zoning restrictions, building regulations, and business licensing, as long as those regulations also affect other "professional or personal service businesses" (defined to include dentistry, medicine, chiropractors, dietitians, optometrists, acupuncture, accounting, architecture, attorneys, engineers, geologists, funeral directors, land surveyors, real estate brokers, etc.).

In 2012 your Board adopted an amendment to the San Mateo County Massage Businesses Ordinance, which was established in response to this new legislation. The intent of this 2012 amendment was to maintain oversight over massage businesses to protect communities from prostitution and illicit activities while facilitating legitimate massage.

Having enforced the Ordinance for the past 18 months, the Sheriff's Office, the Planning and Building Department and the Health System's Environmental Health Services division have identified areas where an additional amendment to the Ordinance would further your Board's original intentions.

These revisions are not intended to address consideration of zoning changes that would possibly restrict where massage businesses can be located within the unincorporated area of the County. Staff is currently looking at the zoning issue, separate from this ordinance.

DISCUSSION:

The proposed amendment to the existing Massage Businesses Ordinance achieves the following:

- Mandates the availability of complete written service records for inspection during regular business hours.
- Clarifies the type of outer garments that must be worn.
- Clarifies lobby visibility requirements.
- Clarifies the rules governing continuances of hearings and the License Board's authority to reduce suspensions and revocations.
- Clarifies the duty to report violations of the Ordinance to the Environmental Health Director.
- Requires that appeals of fines may be resolved in writing without adversarial hearing.
- Requires that massage businesses serving or appealing a suspension, revocation and/or a fine are prevented from selling or transferring their business without first serving the suspension or revocation and/or paying the fine.
- Prohibits individuals from residing in a massage business or being unnecessarily present in the business outside of business hours.
- Exempts the San Francisco International Airport (Airport) from the Ordinance's operating time limitations, in recognition of the Airport's 24/7 operation and its minimal risk of prostitution and other related activity.

The Ordinance has been reviewed and approved by County Counsel as to form.

Adoption of this Ordinance amendment will contribute to the Shared Vision 2025 outcome of an Environmentally Conscious Community by aligning the County's regulations with applicable State's statutes, in order to contribute to safer neighborhoods and businesses providing beneficial services to all residents. It is

anticipated that the percent of massage businesses providing full access to complete written service records for inspection will increase to 100%.

PERFORMANCE MEASURE(S):

Measure	FY 2012-13 Actual	FY 2013-14 Projected
Percent of massage businesses providing full access to complete written service records for inspection	75%	100%

FISCAL IMPACT:

There is no Net County Cost associated with this Ordinance.