

Chapter 17.41

MESSAGE ESTABLISHMENTS

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17.41.010 Location criteria.

A message establishment may be located in any zone district which permits that particular use subject to the following exceptions and qualifications:

A. A message establishment shall not be established or located within five hundred feet of any existing message establishment. The distance between any two message establishments shall be measured in a straight line, without regard to the boundaries of the city and to intervening structures, from the closest point of each establishment.

B. A message establishment may not open or operate in a location where that establishment or a prior message establishment was closed due to criminal activity, had its conditional use permit revoked, or had a message establishment permit revoked any time within the past three years.

(Ord. No. 1195, § 14, 2-24-2015)

17.41.020 Conditional use permit required.

A conditional use permit shall be required for the establishment of any message establishment. The following provisions shall govern the issuance of conditional use permits for message establishments:

A. Applications for conditional use permits under this section shall be subject to the procedures and requirements of chapter 17.68 of this Code.

B. In considering applications for message establishments, the planning commission shall be guided by the provisions of Chapter 17.68 of Title 17 and this section. However, in the event of any inconsistency in said standards, the provisions of this section shall govern.

C. In granting a conditional use permit, the planning commission may impose conditions if the planning commission determines such conditions are necessary to minimize any adverse effect of the proposed use on properties and uses in the area and the rest of the city.

D. A massage establishment shall not operate under any name or conduct business under any designation not specified in the application for the conditional use permit, which shall be identical as the name listed in the applications for the city business license and massage establishment permit

E. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

F. An applicant for a conditional use permit shall submit the information described in this section and a non-refundable fee as established in the city's schedule of fees by resolution of the city council to reimburse the city for the costs of reviewing the application.

G. In addition to any information required for applications for a city business license pursuant to Title 5 of this Code, a massage establishment permit pursuant to Chapter 5.22 of this Code, and conditional use permits pursuant Chapter 17.68 of this Code, an applicant for a conditional use permit for a massage establishment shall submit the following information:

1. A legal description of the parcel.
2. Proof of legal title or a possessory or leasehold interest in the real property upon which the proposed massage establishment will be operated.
3. If the massage establishment has a leasehold interest in the real property, a certified statement from the real property owner(s) authorizing the proposed use of the premises as a massage establishment.
4. A scaled site plan.
5. A description of all physical changes proposed to the property, whether permanent or impermanent, both inside and outside of the building.
6. The separation distance from other existing massage establishments shall be shown on an updated site plan or map.
7. A description of compliance with all facility requirements in Chapter 5.22 of this Code.

8. In addition to any standards for consideration of conditional use permit applications pursuant to Chapter 17.68 of this Code, the planning commission shall consider the following factors in determining whether to issue a conditional use permit, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission determines that the goals of this section are better served thereby:

9. No massage establishment shall be sited in a location where the applicant cannot produce proof of legal title or a possessory or leasehold interest in that real property and a certified statement from the real property owner(s) authorizing the proposed use of the premises as a massage establishment.

10. No massage establishment shall be sited within five hundred feet of an existing or otherwise approved massage establishment.

11. No massage establishment shall be sited in a zone where it is not permitted.

12. No massage establishment shall violate any provision regarding facility requirements within Chapter 5.22 of this Code.

(Ord. No. 1195, § 14, 2-24-2015)

17.41.030 Amortization and regulation of nonconforming
massage establishments.

A. Any use of real property existing on April 1, 2015, which does not conform to the provisions of this chapter, but which was constructed, operated and maintained in compliance with all previous regulations prior to March 11, 2014, shall be regarded as a nonconforming use.

B. Any nonconforming use pursuant to this chapter may continue in operation until June 30, 2017, provided that use and its facility is in compliance with all other laws, except the use restrictions in the zoning ordinance; the use is not extended, enlarged, moved or altered so as to occupy land outside the current structure(s); and the use is not discontinued or abandoned for a continuous period of one hundred eighty days or more.

C. Any nonconforming use pursuant to this chapter may apply for a conditional use permit pursuant to Section

17.41.020. In the event the city grants the conditional use permit, such use shall be considered to be a conforming use.

D. The city manager may approve an extension of time until termination pursuant to Section 17.41.040 of this chapter.

(Ord. No. 1195, § 14, 2-24-2015)

17.41.040 Extension of time for termination of nonconforming use.

The owner or operator of a nonconforming use as described in Section 17.41.030 may apply under the provisions of this section to the city manager for an extension of time within which to terminate the nonconforming use, as follows:

A. The owner of the real property upon which such use operated or the operator of the use may file an application for an extension of time within which to terminate a use made nonconforming by the provisions of this chapter. Such application must be filed with the city manager at least sixty days but no more than ninety days prior to the expiration of the time established in Section 17.41.030 for termination of such use.

B. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the city's schedule of fees established by resolution from time to time by the city council. An application which fails to state a basis upon which an extension may be granted, as set forth in subsection (d) of this section, shall be returned to the applicant as nonresponsive, together with the application fee less any administrative costs of processing the application.

C. The city manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within twenty days of receipt of the application. All parties involved: shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted. Any hearing under this section may be continued for a reasonable time for the con-

venience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to Code of Civil Procedure Section 1094.6.

D. An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings or such other findings as are required by law:

1. The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made before April 1, 2015;

2. The applicant will be unable to recoup said investment as of the date established for termination of the use; and

3. The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with Section 17.41.030.

(Ord. No. 1195, § 14, 2-24-2015)