



# Planning Commission Agenda

Meeting of January 7, 2019 – 6:00 p.m.  
Council Chambers, Civic Center  
1243 National City Boulevard  
National City, CA 91950



The Planning Commission requests that all cellphones, pagers, and/or smart devices be turned off during the meeting.

*Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the Planning Department at (619) 336-4310 to request a disability-related modification or accommodation. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

Welcome to the Planning Commission meeting. The National City Planning Commission conducts its meeting in the interest of community benefit. Your participation is helpful. These proceedings are video recorded.

## **Roll Call**

## **Pledge of Allegiance by Commissioner Quintero**

## **Approval of Minutes**

1. Approval of Minutes from the Meeting of December 17, 2018

## **Approval of Agenda**

2. Approval of the Agenda for the Meeting on January 7, 2019

## **ORAL COMMUNICATIONS (3 MINUTE TIME LIMIT).**

NOTE: Under State law, items requiring Commission action must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature.

## **PRESENTATIONS**

## **CONTINUED PUBLIC HEARINGS**

**PUBLIC HEARINGS**

3. Resolution taking action on a Code Amendment Amending Sections 18.30.030 (Adult Oriented Businesses) and 18.50.010 (Glossary) of Title 18 (Zoning) of the National City Municipal Code Related to Massage Businesses and Adding Section 18.30.370 (Massage Establishments)

**OTHER BUSINESS**

**STAFF REPORTS**

Senior Assistant City Attorney

Deputy City Manager

Acting Planning Director

Principal Planner

Commissioners

Chairperson

**ADJOURNMENT**

Adjournment to the next regularly scheduled meeting on February 4, 2019.



## Planning Commission Minutes

Planning Commission  
Meeting of December 17, 2018  
Planning Conference Room, Civic Center  
1243 National City Boulevard  
National City, CA 91950

These minutes have been abbreviated. Due to ventilation issues in Council Chambers the room was not accessible; therefore, these proceedings were not recorded.

### Agenda Items

The meeting was called to order by Chair Yamane at 6:03 p.m.

### **Roll Call**

Commissioners Present: Quintero, Baca, Sendt, Yamane, Garcia, Flores

Commissioners Absent: Dela Paz

Staff Also Present: Senior Assistant City Attorney Nicole Pedone, Acting Planning Director Ray Pe, Principal Planner Martin Reeder

**Pledge of Allegiance** Presented by Commissioner Garcia.

1. Approval of Minutes from the Meeting of December 3, 2018.

Motion by Flores, second by Garcia to approve the Minutes for the Meeting of December 3, 2018.

### **Motion carried by the following vote:**

**Ayes:** Quintero, Baca, Sendt, Yamane, Garcia, Flores

**Abstain:** None.

**Noes:** None.

**Absent:** Dela Paz

2. Approval of the Agenda for the Meeting of December 17, 2018.

Motion by Baca, second by Sendt to approve the Agenda for the Meeting of December 17, 2018.

**Motion carried by the following vote:**

**Ayes:** Quintero, Baca, Sendt, Yamane, Garcia, Flores

**Abstain:** None.

**Noes:** None.

**Absent:** Dela Paz

**ORAL COMMUNICATION:** None.

**PRESENTATIONS:** None.

**CONTINUED PUBLIC HEARINGS:** None.

**PUBLIC HEARINGS:**

3. Resolution taking action on a Conditional Use Permit for beer and wine sales at an existing restaurant (Los Tito's) located at 917 South Euclid Avenue (Case File No. 2018-13 CUP)

Presented by Principal Planner Martin Reeder.

Applicant Danny Damian has read, understands, and accepts the conditions of the Conditional Use Permit.

Public Speakers in support of the item:

Rob Rice

Salvador Topete

Motion by Garcia, second by Baca to close the public hearing and approve a Conditional Use Permit for beer and wine sales at an existing restaurant (Los Tito's) located at 917 South Euclid Avenue (Case File No. 2018-13 CUP) with a caveat that the sale of alcoholic beverages shall be permitted only between the hours of 10:00 a.m. and 10:00 p.m. Monday through Thursday, 8:00 a.m. to 11:00 p.m. Friday through Saturday, and 8:00 a.m. to 10:00 p.m. Sunday.

**Motion carried by the following vote:**

**Ayes:** Quintero, Baca, Sendt, Yamane, Garcia, Flores

**Abstain:** None.

**Noes:** None.

**Absent:** Dela Paz

**OTHER BUSINESS:**

4. Update on pending Massage Ordinance and subsequent Amendment of the 2019 Planning Commission Meeting Dates.

Presented by Senior Assistant City Attorney Nicole Pedone.

Ms. Pedone advised that state law prohibits massage businesses from being classified as adult entertainment and requested that the Planning Commission approve amending the 2019 meeting calendar to include a meeting on January 7, 2019. At that time, staff would bring forward a staff report seeking the Planning Commissioner's recommendation to remove the reference from the City's ordinance for massage businesses. The item would then go to the City Council for consideration.

Motion by Sendt, second by Quintero to approve the amended 2019 Planning Commission Meeting Dates.

**Motion carried by the following vote:**

**Ayes:** Quintero, Baca, Sendt, Yamane, Garcia, Flores

**Abstain:** None.

**Noes:** None.

**Absent:** Dela Paz

**STAFF REPORTS:**

**Senior Assistant City Attorney:** Wished everyone a happy holiday.

**Brad Raulston, Deputy City Manager:** Absent.

**Acting Planning Director:** Thanked the Planning Commissioners for their work during the year and wished everyone a happy new year.

**Principal Planner:** Thanked everyone for their service.

**COMMISSIONER REPORTS:**

**Dela Paz:** Absent.

**Quintero:** None.

**Flores:** None.

**Yamane:** Thanked Executive Secretary Tonya Hussain and the Planning Commissioners for their work.

**Sendt:** Wished everyone a happy holiday and new year. Reminded everyone of the Oath Ceremony for the new Mayor occurring on December 18<sup>th</sup>.

**Baca:** Wished everyone a happy holiday and new year.

**Garcia:** Announced his new role with the U.S. Census Bureau and advised that he would present to the City Council on January 22, 2019 on how the census impacts National City.

**ADJOURNMENT** by Chair Yamane at 6:43 p.m. to the meeting of January 7, 2019.

\_\_\_\_\_  
CHAIRPERSON

The foregoing minutes were approved at the Regular Meeting of January 7, 2019.



CITY OF NATIONAL CITY - PLANNING DEPARTMENT  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

**PLANNING COMMISSION STAFF REPORT**

TITLE: PUBLIC HEARING – CODE AMENDMENT AMENDING SECTIONS 18.30.030 (ADULT ORIENTED BUSINESSES) AND 18.50.010 (GLOSSARY) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE RELATED TO MASSAGE BUSINESSES AND ADDING SECTION 18.30.370 (MASSAGE ESTABLISHMENTS).

Case File No.: 2018-30 A

Staff report by: Martin Reeder, AICP – Principal Planner

Project location: Citywide

Applicant: City-initiated Land Use Amendment

Environmental review: Not a project per CEQA

Staff recommendation: Recommend approval of the amendments to the City Council

**BACKGROUND**

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the amendments to section 18.30.030 to the City Council.

History

At the City Council meeting of March 7, 2017, the City Council enacted a one year moratorium on massage businesses in the City and directed staff to return with an Ordinance regulating massage businesses consistent with state regulations enacted in 2015 and 2016. The moratorium was extended on April 18, 2017 for 10 months and 15 days, and extended one last time on February 2, 2018 pursuant to Government Code Section 65858. The moratorium is set to expire on February 6, 2019.

### Overview

The amendment will delete all reference to massage or massage businesses under this section pursuant to California Government Code section 51034(c)(2), which states that a city cannot define or regulate a massage establishment as adult entertainment.

Four Municipal Code sections pertain to massage businesses, including Chapter 10.70 – Police Regulated Business Regulations; Chapter 10.79 – Massage Establishment, Chapter 18.30.030 – Adult Oriented Businesses, and Chapter 18.50.010 – Glossary. Staff is concurrently preparing changes to Chapters 10.70 and 10.79 for review by the City Council, as Title 10 (Public Peace, Morals, and Safety) is under the purview of the City Council. However, in order to include the Title 18 changes, the Planning Commission must first make a recommendation, as all changes to Title 18 (Zoning) require a public hearing and recommendation to the City Council.

The City Council initiated the amendments on March 7, 2017. All of the amendments, including those recommended by the Planning Commission to Title 18 of the Municipal Code will be brought back for a public hearing before City Council for their consideration on January 22, 2019.

### Analysis

State regulations (Government Code Section 51034) specifically prohibit any reference to massage as an adult entertainment business, or any regulation of a massage establishment as adult entertainment. State regulations also include specific requirements for state licensing of massage businesses and massage therapists and technicians. However, cities may still impose regulations on a lawful massage business, including a Police Permit, operator's permit, and business license, which will be the case in National City.

There are currently four references to "massage" in Chapter 18.30.030; two are definitions (one included with "Sexual encounter establishment" and the other a stand-alone definition), both of which have been deleted; and the other two are in the section related to distance requirements. There is also a reference in the Glossary, which needs to be modified. All references to "massage" as an adult business have been removed. A strikethrough/underline version of Chapter 18.30.030 is attached for your reference. With the removal of the references to "massage" as an adult business, Chapter 18.30.030 will be consistent with Government Code Section 51034.



### Zoning

There is no change in where a massage business may be located with regard to zoning as a result of this amendment. A massage business has typically been considered the same way as a medical office with regard to zoning. Medical offices may be located in any of the four mixed-use zones, any of the industrial zones, and in the Institutional zone. The only reason a massage business may not operate currently is due to the moratorium.

The only other restriction previously in play was the distance requirements related to adult oriented businesses. That has not been in consideration since the moratorium and would not affect subsequent licensed massage businesses in the future due to the amendment removing references to massage as an adult business. However, in order to be clear about where massage establishments may be located, staff is suggesting the addition of a Code Section under Chapter 18.30 – Specific Use Regulations that specifically regulates massage establishments. The new section is proposed as follows:

#### *18.30.370 – Massage establishments*

*Massage establishments may be located in any zone where medical offices are permitted in accordance with Chapters 10.70 and 10.79.*

### Findings

There are two findings required for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

### General Plan Conformance

The requested amendment is consistent with the General Plan, as Housing and Environmental Justice Policy Goal HEJ-6 encourages convenient and accessible health services that meet the needs of the community, which this amendment would help to attain.

### CEQA Compliance

This amendment is not considered to be a project under CEQA as there would be no physical impact as a result of the change. The amendments would solely modify or remove language related to massage in Chapter 18.30.030 – Adult Oriented Businesses.

In addition, a third finding has been added as follows:

That the proposed amendment will make the Land Use Code consistent with State law.

Summary and next steps

The changes to Title 18 Section 18.30.030 of the Municipal Code are required in order for the Code to be consistent with State law. Therefore, staff recommends that the Planning Commission support the amendments. All of the amendments, including those recommended by the Planning Commission to Title 18 (Zoning) of the Municipal Code will be brought back for a public hearing before City Council for their consideration on January 22, 2019.

**OPTIONS**

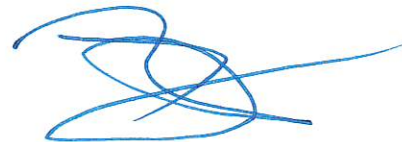
1. Recommend approval of the amendment to the Land Use Code based on the attached findings or findings to be determined by the Planning Commission; or
2. Recommend denial of the amendments to the Land Use Code based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date.

**ATTACHMENTS**

1. Findings
2. Proposed Code changes
3. Resolution



MARTIN REEDER, AICP  
Principal Planner



BRAD RAULSTON  
Deputy City Manager

## RECOMMENDED FINDINGS FOR APPROVAL

1. That the proposed amendment will make the Land Use Code consistent with State law.
2. That the proposed amendment is consistent with the General Plan, as Housing and Environmental Justice Goal HEJ-6 encourages convenient and accessible health services that meet the needs of the community, which this amendment would help to attain.

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3. That the proposed amendment has been reviewed and been found to comply with the California Environmental Quality Act (CEQA); this amendment is not considered to be a project under CEQA as there would be no physical impact as a result of the change. The amendments would solely modify or remove language related to massage in Chapter 18.30.030 – Adult Oriented Businesses.

### **18.30.030 - Adult-oriented businesses.**

#### A. Purpose

1. It is the purpose of this chapter to establish reasonable and uniform content-neutral regulations to decrease blight and crime by either dispersing adult-oriented businesses, or by shifting part of the burden of regulating such businesses to the private sector by placing them in locations which minimize the negative secondary effects of such businesses.
  
2. It is the intent of this chapter that these regulations be utilized to serve the substantial interest of the city in preventing problems of blight and deterioration which accompany and are brought about by adult-oriented businesses, which allowing reasonable alternative locations for those businesses.
  
3. In enacting this chapter, the city council is relying upon the experiences of the City of National City and upon the experiences and studies of other municipalities concerning the deleterious effects of adult-oriented businesses, which this chapter is intended to curtail.

#### B. Definitions.

It is the purpose of this section to provide clear and concise definitions of those words, terms and phrases most commonly utilized in the regulations and provisions of this chapter in order to assist in the uniform interpretation of such regulations and provisions and to insure uniformity in their application.

It is intended that the following words, terms and phrases, whenever used in this chapter, shall be construed as defined in the following subsections, unless from the context a different meaning is specifically defined and more particularly directed to the use of such words, terms or phrases.

It is also intended that those definitions and interpretations set forth in [Section 1.04.010](#) and the glossary shall be used for purposes of uniformity of interpretation and application of the regulations and provisions of this chapter but only where they do not conflict with any definitions or interpretation set forth in this chapter.

1. "Specified anatomical areas" means and includes any of the following:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. "Specified sexual activities" means and includes any of the following:

a. The fondling or other touching of human genitals, pubic region, buttocks, anus or female breast:

b. Sex acts, normal or perverted, actual or simulated; or

c. Masturbation, actual or simulated; or

d. Excretory functions as part of or in connection with any of the activities set forth in this subsection.

3. "Adult bookstore" is an establishment that devotes more than fifteen percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or

b. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

c. An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen percent of the total floor area of the establishment to the sale of books and periodicals.

4. "Adult motion picture theater" is an establishment, with a capacity of fifty or more persons, where, for any form of consideration, films, motion pictures, video cassettes, compact discs, digital video discs, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

5. "Adult mini-motion picture theater" is an establishment, with a capacity of more than five but less than fifty persons, where, for any form of consideration, films, motion pictures, video cassettes, compact discs, digital video discs, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

6. "Adult motion picture arcade," to include without limitation a peep show, is any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas. The image-producing device or peep show device shall also include any other device by or through which electronic, video, photographic, cinematic, digital, or computer-generated images depicting specified anatomical areas or specified sexual activity defined by this section are or can be reflected or projected onto an external screen or be internally projected, generated or reflected onto a screen that is an integral part of the device itself.

7. "Adult drive-in theater" means an open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

8. "Adult cabaret" is a night club, bar, restaurant, cabaret or similar establishment which may serve food or alcoholic or non-alcoholic beverages, or both, and which, for consideration, regularly features live performances or films, motion pictures, video cassettes, compact discs, digital video discs, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or the exposure of specified anatomical areas for observation by patrons or attendees.

9. "Adult motel" is a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

10. "Adult theater" is a theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

11. "Adult model studio" is any establishment open to the public where, for any form of consideration, one or more persons display or expose any portion of specified anatomical areas to be observed, sketched, drawn, painted, sculptured, photographed, videoed or be similarly viewed or depicted by any person, other than the proprietor, who pays a consideration to either the proprietor, an employee of the proprietor or the model. This definition shall also include, without limitation, a "lingerie modeling establishment."

a. This definition shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution which meets the requirements established in the Education Code of the State of California for the issuance or conferring of, and is in fact authorized thereunder to issue and confer a diploma.

12. "Sexual encounter establishment" is an establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state of California engages in sexual therapy.

a.

~~For the purposes of this chapter, sexual encounter center shall include massage or rap parlor and other similar establishments.~~

13. "Body painting studio" is an establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude in terms of specified anatomical areas.

14.

~~"Massage parlor" is an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state of California. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.~~

15.

14. "General motion picture theater" is a building or part of a building intended to be used for the specific purposes of presenting entertainment as defined in this chapter, or displaying motion pictures, slides or closed circuit television pictures before an individual or assemblage of persons, whether such assemblage be of a public, restricted or private nature, except a home or private dwelling where no fee, by way of an admission charge, is charged; provided, however, that any such presentations are

not distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas in that any such depiction or description is only incidental to the plot or story line.

~~16.~~

15. "Legitimate or live theater" is a theater, concert hall, auditorium or similar establishment which, for any fee or consideration, regularly features live performances which are not distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas in that any such depiction or description is only incidental to the primary purpose of the performance.

~~17.~~

16. "General bookstore" is an establishment engaged in the buying, selling and/or trading of new and/or used books, manuscripts and periodicals of general interest. A general bookstore does not include an establishment that is encompassed by the definition of adult bookstore.

~~18.~~

17. "School" is an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the state board of education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of learning under the jurisdiction of the state department of education, but it does not include a vocation or professional institution or an institution of higher education, including a community college.

~~19.~~

18. "Establishing an adult-oriented business," as used in this chapter, means and includes any of the following:

- a. The opening or commencement of any such business as a new business;
- b. The conversion of an existing business, whether or not an adult-oriented business, to any of the adult-oriented businesses defined in this chapter; or
- c. The addition of any of the adult-oriented businesses defined herein to any other existing adult-oriented business; or
- c. The relocation of any such business.

19. "Transfer of ownership or control," as used in this chapter, means and includes any of the following:



- a. The sale, lease or sublease of an adult-oriented business;
- b. The transfer of securities which constitute a controlling interest in such business, whether by sale, exchange or similar means; or
- c. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of such business, except for transfer by bequest or other operation of law upon the death of the person possessing such ownership or control.

20. "Sale and display of paraphernalia and literature commonly associated with the use of narcotics and controlled substances (headshops)" is an establishment or place where more than fifteen percent of the floor area in any room is used for the sale and display of such paraphernalia and literature, including but not limited to cocaine and sniffing kits, glass mirrors for cutting cocaine, snorting spoons and tubes, strainers to sift cocaine, water pipes (bongs), everyday items with special removable tops that have been converted to conceal narcotics and drugs, including simulated beer cans, oil cans and plastic photograph film vials, "roach clips" (for holding marijuana cigarettes), or books and magazines extolling the use of narcotics or controlled substances. Such a place is an adult-oriented business. This definition does not limit licensed pharmacies in selling and displaying paraphernalia that is medical equipment prescribed by licensed medical practitioners.

~~22.~~

21. A "private viewing room" is an area separated from the sales or display area of the establishment by a curtain, wall, door, shade or similar obstruction thus allowing the private viewing of video tapes, compact discs, digital video discs, movies, transparencies, films or projectable motion pictures by customers at the establishments.

~~23.~~

22. "Video cassette, compact disc, digital video disc sales and rentals—adult" is the same as "adult bookstore."

~~24.~~

23. "Video games—adult" are coin-operated electronic game machines having visual displays and animation that depict in any manner, any sort of activity characterized by exposure of "specified anatomical areas" or "specified sexual activities."

~~25.~~

24. "Sexually oriented business" is any business in which:

~~a.~~

a. Specified sexual activity occurs or specified anatomical areas are exposed, or both, by a patron, attendee, employee or independent contractor for any form of consideration paid or furnished to the owner, proprietor, an employee of the owner or proprietor, or to an independent contractor at the location or premises; or

b.

b. Material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, or both, is displayed, sold or provided for consideration on a regular basis.

26.

25. "Consideration," as used in this chapter, means a payment or transfer of money or other thing of value exceeding a total of one cent to an owner or proprietor, an employee of the owner or proprietor, or to a performer, independent contractor or entertainer at the establishment, without regard to:

a.

a. Any donative intent of the payer, transferor or donor;

b.

b. The time of payment or transfer; or

c.

c. Whether the payment or transfer was for admission to the establishment or for merchandise, food or beverage displayed or sold at or on behalf of that establishment.

27.

26. "Lingerie modeling establishment" means an establishment where, for consideration and for viewing by a patron at that establishment, a person either:

a.

a. Wears and displays undergarments, lingerie, underwear and similar articles of intimate apparel which cover those areas which constitute specified anatomical areas; or

b.

b. Changes from one costume into another in the presence of a patron or patrons and thereby exposes one or more specified anatomical areas to that patron or patrons. This definition shall not, however, be construed so as to apply to a commercial retail or wholesale establishment that principally and customarily sells clothing and related wearing apparel and where specified anatomical areas are not exposed to customers during demonstration displays of merchandise for sale.

C.

C. Prohibitions.

4.

1. No person or entity shall own, establish, operate, control or enlarge or cause or permit the establishment, operation, enlargement or transfer of ownership or control, except pursuant to [Section 18.30.030\(F\)](#), of any of the following adult-oriented businesses if such adult-oriented business is or would be within one thousand five hundred feet of another adult-oriented business, within one thousand five hundred feet of any school or public park within the city, or within one thousand feet of any residentially zoned property in the city:

a. Adult bookstore;

b. Adult motion picture theater;

c. Adult mini-motion picture arcade (peep shows);

d. Adult arcade;

e. Adult drive-in theater;

f. Adult cabaret;

g. Adult motel;

h. Adult theater;

i. Adult model studio;

j. Body painting studio;

**Message parlor;**

k. Any sexually oriented business;

l. Adult video games;

~~k.~~

~~l.~~

~~m.~~

~~n.~~

m. Adult video cassette sales and rentals;

n. Sexual encounter establishments;

~~o.~~

o. Lingerie modeling establishment.

~~p.~~

2. An establishment listed in this section shall not be established, operated, enlarged or transferred unless the provisions of the zone in which the site or proposed site is located permit such a use. The conduct of such establishment and the use of premises shall otherwise comply with the Land Use Code and all other applicable regulations.

3. Nothing in this chapter prohibits the location of adult-oriented businesses within retail shopping centers in all commercial and major mixed-use zones wherein such activities will have their only frontage upon enclosed malls or malls isolated from their direct view from public streets, parks, schools, churches or residentially zoned property.

4. ~~Massage parlors, and~~ Sexual encounter establishments shall be permitted only upon the prior issuance of a conditional use permit.

5. The location of an adult-oriented business listed in subsection (C)(1) (with the exception of subsections (C)(1)k and (C)(1)o) within any new or existing retail center, as specified in subsection (C)(3), shall not require a conditional use permit.

D. Measure of Distance. The required minimum distance between any two adult-oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each such business. The distance between any adult-oriented business and any public school, public parks or residential zoned land shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult-oriented business to the closest property line of the public school, public park or residential zone.

E. Development and Maintenance Standards. All adult-oriented businesses hereafter commenced shall, in addition to compliance with the Land Use Code, comply with these specific requirements:

1. Signs. Except for theater marquee signs, changeable copy signs, temporary signs and small permanent signs are not permitted. In addition to the requirements of

Section 18.62.020 for permit approvals, all sign permits shall be subject to review and approval by the planning commission.

2. Exterior Painting. Buildings and structures shall not be painted or surfaced with garish colors or textures or any design that would simulate a sign or advertising message.

3. Advertisements, displays of merchandise, signs or any other exhibit depicting adult-oriented activities placed within the interior of buildings or premises shall be arranged or screened to prevent public viewing from outside such buildings or premises.

4. No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to an adult-oriented use is allowed

5. Upon order of the city manager, graffiti appearing on any exterior surface of a building or premises, which graffiti is within public view, shall be removed, and that surface shall be restored within seventy-two hours of notification to the owner or person in charge of the premises.

6. All exterior windows that are visible to the public must be opaquely covered.

#### F. Exceptions.

1. Nothing in this section prohibits the transfer of principal ownership or control of adult-oriented uses permitted under [Section 18.30.030\(C\)3](#) or [18.30.030\(C\)5](#).

2. Notwithstanding any other provision of this code to the contrary, the provisions of this chapter shall be applicable to all land within the city, including all redevelopment project areas now in existence or hereafter established.

#### G. Other Regulations, Permits or Licenses.

1. Effect. The provisions of this chapter do not waive or modify any other provision of this code. Adult-oriented businesses shall comply with all applicable provisions of law and this code.

2. Reference. This list is not all-inclusive and is inserted here for reference only; other applicable regulations include, but are not limited to the following chapters:

H. Protection of Minors. Adult-oriented business shall not allow the admission of minors and shall otherwise comply with Chapter 10.62. An attendant shall be present at all times during hours of operation to deny admittance to minors.

I. Private Viewing Rooms. It is unlawful for any person or entity which is subject to the regulations of this chapter, and which sells or rents prerecorded video tapes, movies, transparencies, films, projectable motion pictures or equipment used for showing any or all of these items, to offer or allow the viewing of these materials in private viewing rooms, as defined in subsection (B)(22).

J. Constitutional Severability. The city council declares that the invalidity of any section or portion of this chapter shall not affect the validity of any other remaining section or portion; that the city council would have adopted each of those remaining portions notwithstanding any later declared invalid. If any portion determined to be invalid can be severed or be judicially interpreted in a way that could harmonize it with the remaining provisions, then it may either be severed or be judicially interpreted and, as interpreted, be applied so as to give full purpose, meaning and effect to the remaining provisions of this chapter.

(Ord. No. 2012-2372, Exh. B-1, 2-7-2012)

### **18.30.370 – Massage establishments**

Massage establishments may be located in any zone where medical offices are permitted in accordance with Chapters 10.70 and 10.79.

### **18.50 – Glossary**

[18.50.010] – Generally

Massage ~~and massage parlor~~:

~~1.~~ Massage. See Section 10.79 [and 18.30.370](#).

~~2.~~ ~~Massage parlor. See Sections 18.30.030.~~

RESOLUTION NO. 2019-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION  
TO THE CITY COUNCIL OF AMENDMENTS TO SECTION 18.30.030  
(ADULT ORIENTED BUSINESSES) AND 18.50.010 (GLOSSARY)  
OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE  
RELATED TO MASSAGE BUSINESSES AND ADDING  
SECTION 18.30.370 (MASSAGE ESTABLISHMENTS)..  
CASE FILE NO. 2018-30 A

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Chapter 18.12.140 (B); and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendments at a duly advertised public hearing held on January 7, 2019, at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report provided for Case File No. 2018-30 A, which is maintained by the City and incorporated herein by reference; along with any other evidence presented at said hearing; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City amendments to Section 18.30.030 (Adult oriented businesses) and 18.50.010 (Glossary) of Title 18 (Zoning) of the National City Municipal code related to massage businesses and adding section 18.30.370 (Massage establishments); and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, public convenience or necessity, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Planning Commission of the City of National City, California, that the evidence presented to the Planning

Commission at the public hearing held on January 7, 2019, support the following findings:

1. That the proposed amendment will make the Land Use Code consistent with State law.
2. That the proposed amendment is consistent with the General Plan, as Housing and Environmental Justice Goal HEJ-6 encourages convenient and accessible health services that meet the needs of the community, which this amendment would help to attain.
3. That the proposed amendment has been reviewed and been found to comply with the California Environmental Quality Act (CEQA); this amendment is not considered to be a project under CEQA as there would be no physical impact as a result of the change. The amendments would solely modify or remove language related to massage and add clarification of massage establishment regulation in Title 18 (Zoning).

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of January 7, 2019, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

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CHAIRPERSON