

MEMORANDUM

TO: City Council
FROM: City Manager
DATE: April 9, 2015
SUBJECT: Comments on Agenda Items, Meeting of April 14, 2015

ITEM 8.A. The City Council is recognizing Deborah Lynn Cariffe for an act of heroism she displayed on February 25th in front of the McDonald's on Huntington Drive. Right after a traffic collision, she ran out to the middle of the street in order to save a family that had crashed into the median/tree. While the family was in shock, she lifted a child and infant out of harm's way and quickly placed them in safety.

ITEM 8.B. Adrian Morales of Pro One Stage Production of Duarte recently donated his time and created a fantastic promotional video for the City of Duarte's Host Town effort for the Special Olympics. Mr. Morales' creation was also featured in the Mayor's recent State of the City address, and is also on the City's website, along with a story about the City's host town efforts.

ITEM 8.C. Videographer and Duarte resident Robert Herrera generously donated several days of filming time to the Mayor's State of the City presentation by creating a 3½-minute video of the City set to the tune of the song "This City" featuring a host of local sights and sounds of Duarte. He will be recognized for his work at the City Council meeting.

ITEM 8.D. Brian Baretto, External Affairs Manager with California American Water, will be discussing the recent Executive Order issued by Gov. Jerry Brown on April 1st mandating cities across California to cut water use by 25% as part of Statewide mandatory drought restrictions, the first in California history. The order came a year after the Governor asked for a 20% voluntary cut in water use, the same month where the lowest snowpack in more than 60 years was recorded, on top of four years of drought. Mr. Baretto will discuss how this order, after it is ratified by both the State Water Resources Board and California Public Utilities Commission, will affect both the City of Duarte and its residents.

ITEM 8.E. The California Joint Powers Insurance Authority (JPIA) conducts regular Risk Management Evaluations (RME) for its member agencies. Our most recent evaluation was conducted in March 2014. The RME's are a part of JPIA's Loss Control Action Plan designed to assist member agencies in addressing areas in which risk exposure supports the need for operational changes. Duarte staff is constantly working to address items that are identified through these evaluations, and Maria Galvan, Risk Manager for Region 5 of JPIA, will be giving a brief update on the status of Duarte's RMEs and compliance with JPIA's overall Loss Control Action Plan.

ITEM 12.D (Consent Calendar). A proclamation will be issued declaring April 2015 as "Sexual Assault Awareness and Prevention Month," and "Denim Day" in Los Angeles County and the City of Duarte on April 29, 2015. Both events are intended to draw attention to the fact that rape and sexual assault remain serious issues in our society, and that harmful attitudes about rape and sexual assault allow these crimes to persist and allow victims/survivors to be re-victimized.

ITEM 12.E (Consent Calendar). A proclamation will be issued declaring April 2015 as "DMV/Donate Life California Month" in the City of Duarte. Residents will be encouraged to check "Yes" when applying for or renewing their driver's license and I.D. cards. It is understood that organ, tissue, marrow, and blood donation are life-giving acts recognized worldwide as expressions of compassion to those in need, and more than 123,000 individuals nationwide, and more than 21,000 in California, are currently on the

national organ transplant waiting list, and every 90 minutes one person dies while waiting, due to the shortage of donated organs.

ITEM 12.G (Consent Calendar). This item recommends the awarding of a contract to ECS Imaging, Inc., for the implementation of a Laserfische-based electronic records management system, along with the associated document scanning of existing Building and Safety property paper permit records. The total project costs of \$28,995 are funded by Building and Safety permit revenue.

ITEM 12.H (Consent Calendar). This is a letter from the City opposing Assembly Bill 45. This bill would, among other things, require jurisdictions to conduct an expensive and detailed waste characterization study in order to establish a baseline of their household hazardous waste (HHW) collection activities and to increase their HHW collection and diversion rate above the established baseline by an unspecified amount.

ITEM 12.I (Consent Calendar). This is a letter from the City supporting Senate Bill 485. This bill would authorize the Sanitation Districts of Los Angeles County to manage stormwater and dry weather urban runoff. The City of Duarte is a member of Sanitation Districts #15 and #22 of Los Angeles County. SB 485 would provide another option or tool to assist cities in meeting the requirements of the Los Angeles Region's municipal stormwater permit.

ITEM 12.J (Consent Calendar). A request has been made by the Youth and Family Committee for the City Council's assistance in the recruitment of new Committee members. The Committee gratefully accepts the Council's offer to assist in the recruitment of more Committee members, and respectfully requests that the Council make every effort to find additional members to sit on the Youth and Family Committee.

ITEM 12.K. (Consent Calendar). The Youth and Family Committee has voted to change the regular meeting location to Foothill Family Service's (FFS) Conference Room. Foothill Family Service has a newly renovated building and meeting rooms, and is a welcoming facility that may provide greater opportunities for community interactions that are associated through FFS, and may enhance the Committee's efforts to encourage initiators to implement their assigned action steps. The Committee requests formal approval of this change by the Duarte City Council.

ITEM 14. This is a Public Hearing and first reading of Ordinances to consider Municipal Code Amendments to amend certain definitions that are applicable in the regulations of massage establishments. On February 24, 2015, the Council held a Public Hearing and discussed a proposal requiring a minimum 2,000 square foot (s.f.) gross owned or leased floor area for new massage establishments. During deliberation, several different ideas were considered, including maintaining a 2,000-s.f. minimum, reducing the floor area requirement, or completely eliminating any minimum massage establishment size. The Council did not introduce the Ordinance, and instead referred the issue of minimum massage establishment floor area back to the Planning Commission for further consideration. On March 16, 2015, the Planning Commission clarified its recommendation (4-1-0-0), proposing a minimum 1,200-s.f. floor area requirement for a new massage business. The staff report for MCA 14-05 being considered tonight remains identical to the one considered on February 24, except for the modifications related to a minimum floor area requirement for new massage establishments.

The staff report and Ordinance 15-O-03 were also presented, and a Public Hearing was conducted for MCA 14-06 at the February 24, 2015, City Council meeting. The Council decided to continue this item. The staff report and Ordinance remain unchanged from the previous meeting, except for three proposed modifications: 1) Chapter 5.56.100 – additional language on window coverings for interior doors/windows;

2) Chapter 5.56.160 – rewritten section dealing with separate room requirements based upon gender and limitations on group massage; and 3) Chapter 5.56.170 – clarification on serving both genders, clarification about providing separate gender dressing and toilet facilities, and deletion of a requirement that showers be provided to each gender.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Darrell J. George', with a stylized flourish at the end.

Darrell J. George
City Manager

MINUTES

JOINT CITY COUNCIL/CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED REDEVELOPMENT AGENCY/HOUSING AUTHORITY/COMMUNITY FACILITIES FINANCING AUTHORITY OF THE CITY OF DUARTE REGULAR MEETING – MARCH 24, 2015

CALL TO ORDER	The City Council/City Council as Successor Agency to Dissolved Redevelopment Agency/Housing Authority/Community Facilities Financing Authority of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Paras-Caracci called the meeting to order at 6:33 p.m.
RECORDATION OF ATTENDANCE	The following were in attendance: PRESENT: Finlay (arrived during Closed Session), Kang (left at 8:15 p.m.), Reilly, Paras-Caracci ABSENT: Fasana ADMINISTRATIVE STAFF PRESENT: City Manager George, City Attorney Melching
ADOPTION OF AGENDA	Kang moved, Reilly seconded to adopt the Agenda, and carried with Fasana absent and Finlay not present.
CLOSED SESSION Conference with Legal Counsel Anticipated Litigation	There was no public input. Melching announced the Closed Session was pursuant to Government Code §54956.9 (d)(4); Anticipated litigation; Number of potential cases: one. The Closed Session concluded at 7:14 p.m. City Council reconvened at 7:15 p.m., with four members present, and Fasana absent.
PLEDGE TO THE FLAG	Marilyn Mays led the Pledge of Allegiance to the Flag.
MOMENT OF REFLECTION	A moment of reflection was observed.
FITNESS/MENTAL WARM-UP	Reilly and Finlay provided the warm-up.
PUBLIC REPORT OF CLOSED SESSION ITEM	Melching reported that during the Closed Session, there was no reportable action taken.
SPECIAL ITEMS Presentation – Proclamation Recognition for National Service	Mayor Paras-Caracci read and presented a proclamation for the Mayor's Day of Recognition for National Service to the Duarte's Promise AmeriCorps VIP Fellows, and expressed appreciation for their volunteerism.
Presentation – Wellness/Obesity Prevention Programs	Cesar Monsalve presented the annual update on the City's wellness program and obesity prevention program, including events, partnerships, classes, nutrition/health-related activities, and implementation efforts.
Presentation – Union Station Homeless Services	Michelle Garcia, Union Station Homeless Services, presented an overview of the Family Solution Center, including programs, services, providers, vision, guiding principles, and resources.
Public Safety Update	Brian Villalobos provided the monthly Public Safety update.

Redevelopment Dissolution Update	Jeff Melching provided an update on the dissolution of redevelopment, including proposed legislation, court of appeal, and legislative efforts.
ANNOUNCEMENTS	Joanna Gee, Duarte Library, announced upcoming workshops, programs, story times, and book sale in March and April. Abdali Martinez introduced herself as the new Field Representative for Assemblymember Roger Hernandez, and announced upcoming events including Women of the Year ceremony. Finlay asked that the Women of the Year honorees from Duarte be invited to a Council Meeting for recognition. Karen Herrera presented community announcements about City events, projects, programs, and activities in March and April.
ORAL COMMUNICATIONS	The following spoke on items not on the Agenda. Jack Collins – Harassment.
ITEMS ADDED TO CONSENT	Finlay moved, Reilly seconded to add attendance at the SCAG General Assembly, May 7-8, 2015, Palm Desert, to Consent Item E, and carried with Fasana absent.
CONSENT CALENDAR	Finlay moved, Reilly seconded to approve the Consent Calendar, as amended, as follows, and carried with Fasana absent. Approve Items A, B, C, D, E.
ITEMS FROM CITY COUNCIL/ CITY MANAGER	REILLY: Attended City of Hope blood and platelet donors hoe-down, Carol Liu and Board of Supervisors Women’s History Month events, and Friends of the Duarte Library author’s luncheon, announced watershed restoration program on April 11 and May 9, and attended School Board meeting where a feasibility study for a new high school gym was approved. FINLAY: Stated the State of the City was informative and entertaining, inquired about an email she received concerning graffiti and trash on the walkway near Huntington Drive and the freeway entrance (it was noted that staff is following up on it), suggested walkers using the bike path near Mt. Olive and Royal Oaks Drive wear reflective clothing at night, distributed information from SCAG meeting about the Burbank airport upgrade, stated she has received inquiries about mining on the hillside in Azusa and the monitoring station, she thinks it is time to revisit the situation, suggested the possibility of a town hall meeting at Valley View over the next couple of months, and to bring in the AQMD, as many people are offended by what they are seeing. PARAS-CARACCI: Stated she has also received correspondence concerning the uptick in the monitoring station and PM readings, with specific concerns in the Fish Canyon area, she would like an update for the benefit of the residents, she was able to recognize volunteers at Foothill Unity Center, invited attendance at

the Women's Business Expo on April 25, she would like to formally recognize Diana Burckhard for her 15 years of service to the Chamber, she heard we will be getting new curtains for the Community Center, with regard to the recent system upgrades and meeting broadcast, inquired about the possibility of having the face of the speaker on one of the screens and the agenda on another screen, stated she looks forward to the School Board's selection of a new Superintendent and to continue to partner and collaborate with them, and encouraged the public to view the meetings and be allowed to make decisions.

ADJOURNMENT

The meeting was adjourned at 8:50 p.m. in memory of Katie Bartlett.

Mayor Tzeitel Paras-Caracci

ATTEST:

City Clerk



Proclamation

SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH, AND DENIM DAY

WHEREAS, the United States government has declared April 2015 as "Sexual Assault Awareness and Prevention Month," and the Peace Over Violence organization has declared April 29, 2015, as "Denim Day" in Los Angeles County; and

WHEREAS, both events are intended to draw attention to the fact that rape and sexual assault remain serious issues in our society, and that harmful attitudes about rape and sexual assault allow these crimes to persist and allow victims/survivors to be re-victimized; and

WHEREAS, Sexual Assault Awareness and Prevention Month and Denim Day were also instituted to call attention to misconceptions and misinformation about rape and sexual assault, and the problem that many in society remain disturbingly uninformed with respect to issues of assault and forcible rape; and

WHEREAS, every two minutes, someone in America is sexually assaulted, approximately one in five women have been raped during their lifetime, and youths under 18 years of age account for 44% of all reported assaults; and

WHEREAS, with proper education, we can be successful in reducing incidents of this alarming and psychologically damaging crime;

NOW, THEREFORE, BE IT RESOLVED that the City of Duarte hereby proclaims the month of April 2015 as SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH and designates April 29, 2015, as DENIM DAY in Duarte, and urges everyone to wear jeans on April 29, 2015, to help communicate the message that there is no excuse and never an invitation to rape.

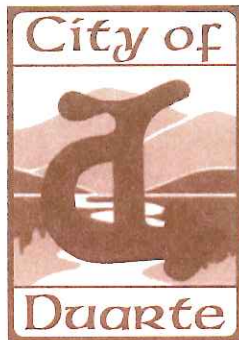
Mayor Tzeitel Paras-Caracci

ATTEST:

City Clerk Marla Akana
Duarte, California

April 14, 2015





Proclamation

DMV/DONATE LIFE CALIFORNIA MONTH

WHEREAS, organ, tissue, marrow, and blood donation are life-giving acts recognized worldwide as expressions of compassion to those in need; and

WHEREAS, more than 123,000 individuals nationwide and more than 21,000 in California are currently on the national organ transplant waiting list, and every ninety minutes one person dies while waiting, due to the shortage of donated organs; and

WHEREAS, more than 600,000 units of blood per year are needed to meet the need in California, and at any given time, 6,000 patients are in need of volunteer marrow donors, and the need for donated organs is especially urgent in Hispanic and African American communities; and

WHEREAS, a single individual's donation of the heart, lungs, liver, kidneys, pancreas, and small intestine can save up to eight lives; donation of tissue can save and heal the lives of up to 50 others; and a single blood donation can help three people in need; and

WHEREAS, the spirit of giving and the decision to donate are not restricted by age or medical condition; and

WHEREAS, California residents can sign up to be organ and tissue donors with the state-authorized Donate Life California Registry when applying for or renewing their driver's licenses or ID cards at the California Department of Motor Vehicles;

NOW, THEREFORE, BE IT RESOLVED that the City of Duarte hereby proclaims April 2015 as DMV/DONATE LIFE CALIFORNIA MONTH in the City of Duarte, and encourages all residents to check "YES" when applying for or renewing their driver's license or I.D. card, or sign up at www.donateLIFeCalifornia.org or www.doneVIDAcalifornia.org.

Mayor Tzeitel Paras-Caracci

ATTEST:

City Clerk Marla Akana
Duarte, California

April 14, 2015



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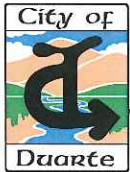
CITY OF DUARTE

From: Allen Kelinsky
Subject: Planning Commission resignation
Date: March 30, 2015 at 3:18 PM
To: hensleyc@accessduarte.com
Cc: Marla Akana akanam@accessduarte.com

Hi Craig,

As I mentioned at the most recent Planning Commission meeting, I will be moving to Whittier in May, so I regretfully must resign my position on the Duarte Planning Commission as of May 1. I greatly enjoyed the experience on the Planning Commission and I will sincerely miss working with you and the other commissioners.

Thanks,



MEMORANDUM

To: Honorable Mayor and Councilmembers

From: Irma Hernandez, Senior Planner

Date: April 7, 2015

Subject: Award of Contract to ECS Imaging Inc. to Implement an Electronic Permit Records Document Management System using Laserfiche Software

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute an Agreement with ECS Imaging, Inc. for an amount not to exceed \$15,495 for the implementation of a Laserfiche based electronic records management system and an amount not to exceed \$13,500 for the associated document scanning of existing Building and Safety property paper permit records. The total projects costs (\$28,995) are funded by Building and Safety permit revenue and are included in the City's current FY 2014-2015 budget.

BACKGROUND

The City Council approved a budget item for the current fiscal year (FY 2014-2015) to fund the costs of scanning and creating a permit document management system. The project is funded using Building and Safety permit revenue. Currently, the Building and Safety Division of the Community Development Department does not have an electronic records management system for property permit records. The City has over 7,100 parcels in the City with an estimated 160,000 pages that comprise permit history for the structures that exist or have existed on those parcels. Some permit documents were issued prior to the City incorporation in 1957. The permit records are currently stored in non-fire rated cabinet drawers behind the Community Development public counter, which puts them at a high risk of loss resulting from a catastrophic event such as a fire. This archaic permit storage system also leaves the permits susceptible to damage due to aging or flood.

ANALYSIS

The ability to retain and search City permit records in an electronic format will provide many benefits including safekeeping, efficiency when searching for permit history, and reduction in storage needs. For the past few months staff has been working diligently to evaluate services provided by scanning and document management vendors. Staff researched and contacted various companies and narrowed down the pool to four companies. Upon calling references, the pool was narrowed down to three companies. Of the three firms, only ECS Imaging Inc. provided a detailed quote for scanning and document management services.

The other firms were non responsive to the City's requests for information which reflects poorly on their customer service.

ECS Imaging, Inc. was recommended by many cities including Aliso Viejo, West Hollywood, and Beaumont to name a few. The City of West Hollywood gave a positive review of ECS Imaging Inc. and has a long-standing relationship with the company including multiple city departments. The City of Beaumont also had a positive review of ECS and has a long-standing relationship with them dating back to 1996. Cities close to Duarte, such as Monrovia, Arcadia, and South Pasadena did not recommend their current vendors which provide similar services. Other nearby cities contacted still keep paper permit records.

ECS Imaging, Inc. is a leader in providing document scan imaging and management solutions to cities. ECS has a local government client list of over 87 city clients and over 300 plus clients including law & justice, county, tribe, and education, and federal agencies. After interviewing ECS staff and calling other cities that use their services, staff feels confident in recommending ECS Imaging, Inc.'s services. Staff held a technical conference call with ECS Imaging, Inc.'s technical director and the City's IT consultant to ensure the implementation of the proposed products and services would work with the City's Mac based systems. Ultimately, all parties felt that the ECS proposal would result in a successful document management program for the City's Building and Safety permit records.

The proposed permit records management system utilizing Laserfiche software will be in line with commonly used electronic document management systems used by other cities. The utilization of Laserfiche is also advantageous because the software is known for its reliability and potential for expansion. Laserfiche can also be used for other City scanning projects pursued in the future. Laserfiche's business model is to license their software to Value Added Retailers, who sell the software directly to clients, while offering customized training and ongoing support services. ECS Imaging, Inc. is a Value Added Retailer (VAR) and has extensive experience in document scanning services and utilizing the software Laserfiche.

At the conclusion of project implementation the City will have OCR (optical character recognition - to create searchable text) scanned images of all existing Building and Safety Division permit records which will facilitate specific data searches (i.e. search by: street name, permit number, type of permit, etc.). The City will also have a Laserfiche based, customized, secure, cloud hosted, web based, document management database. It is anticipated that the software install, set-up, scanning, indexing, and training will take place over a period of 60 days. The annual hosting and software costs are approximately \$10,000, which will be budgeted annually.

Staff recommends that the City Council authorize the City Manager to execute an Agreement with ECS Imaging, Inc. for the implementation of a permit records document management program for an amount not to \$28,995, funded by Building and Safety permit revenue funds currently allocated in the City's FY 2014-2015 budget.

Enclosures

Sample Permit Laserfiche Database
ECS Imaging, Inc. Overview





City of Fullerton

Document Archive

Entire Repository

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Acacia Av

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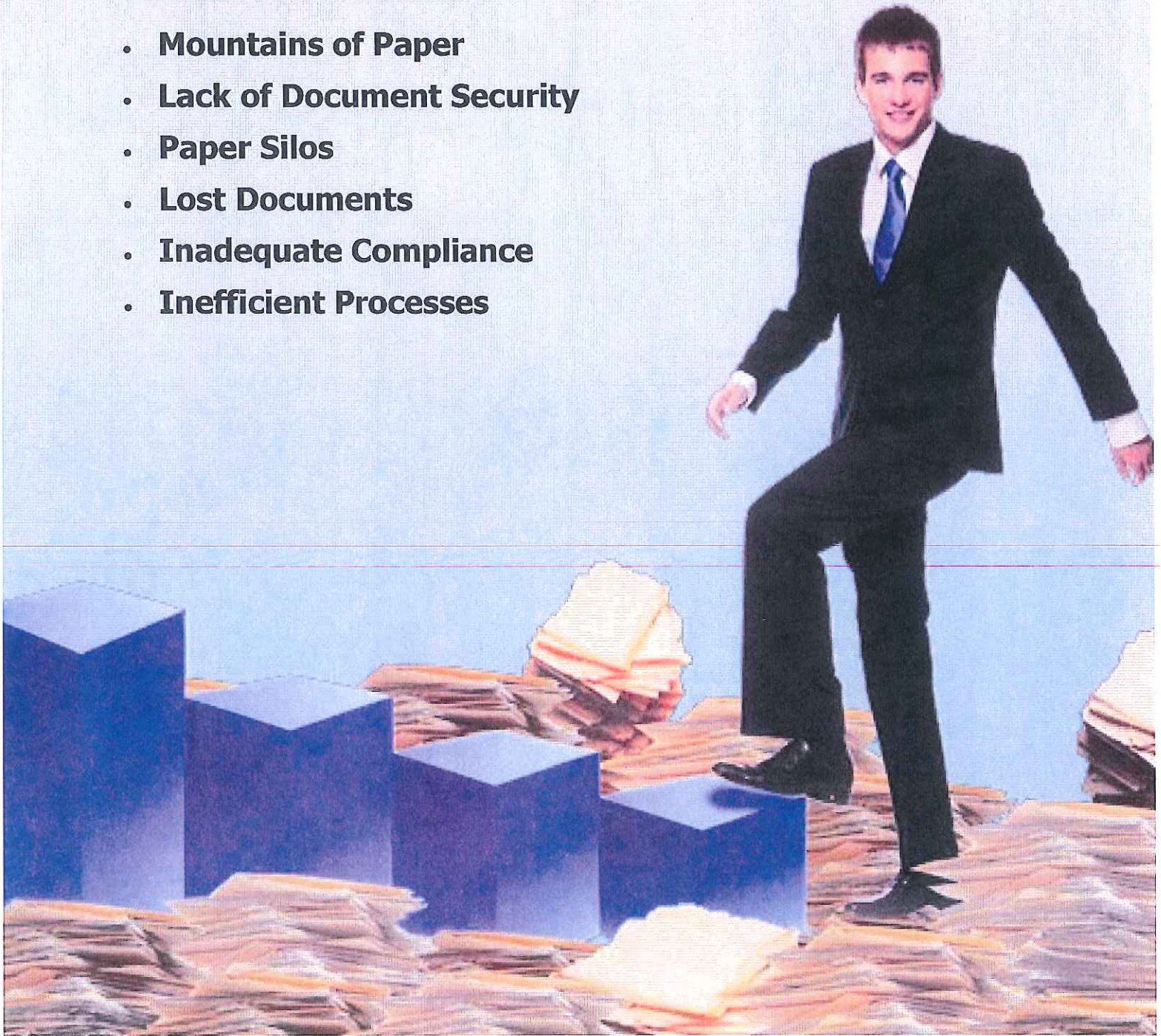
Document management portal powered by Laserfiche WebLink 8.2.2 © 1998-2013 [Laserfiche](#)

Suffering from Paperitis?

(The Chronic Inflammation of Paper)

Symptoms Include:

- **Mountains of Paper**
- **Lack of Document Security**
- **Paper Silos**
- **Lost Documents**
- **Inadequate Compliance**
- **Inefficient Processes**



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- Integration between Software Applications
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- WORM Backup Archival Solution

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ECM - Document Management

Cured Processes

Local Flexibility with Central Control
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Automated Business Processes
Product Certification Program
User Friendly Functionality
Enterprise Scalability
Agile ECM
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Ensure Compliance
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Manage Retention on Documents
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Security, Encryption, & Auditing
SDK Toolkit & Easy Integration Tools

Integrated Solutions



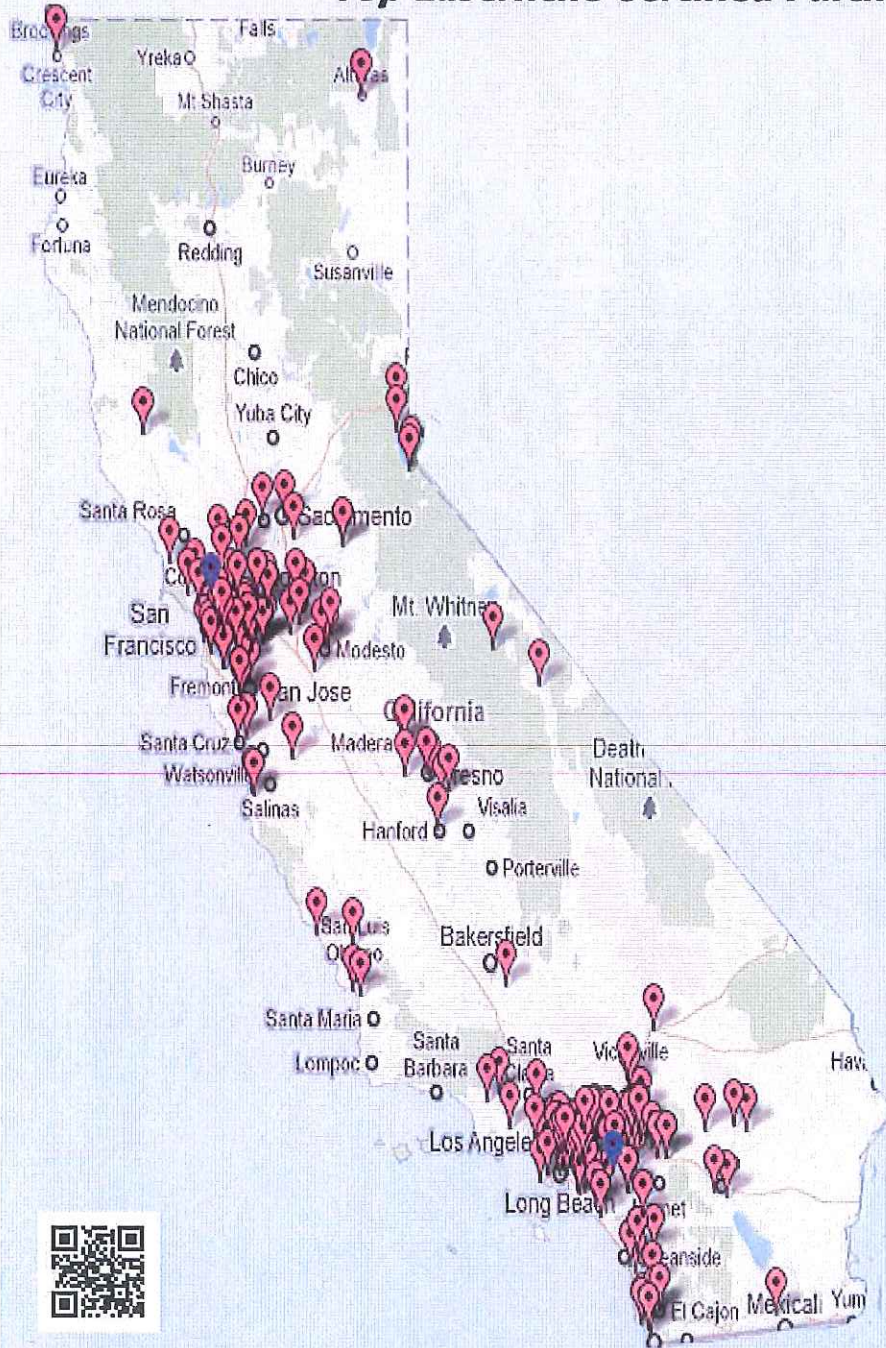
- I-Pad and Smartphones
- Electronic Forms Creation and Automation
- Paperless Agenda Packets, Minutes & Web-streaming video
- Transactional Documents Designer and Electronic Capture
- Integrations to 3rd Party Applications ie. Peoplesoft, Oracle...
- Customized Integrated Applications:
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ECS Imaging makes my Laserfiche life easy and they never fail to astonish me with their knowledge and friendly service; they always make me feel important and appreciated.

Mary—South Lake Tahoe Public Utilities District

Clerk of the Boards of Supervisors is utilizing Laserfiche and it is meeting our current needs.

Tanna—Madera County, Board of Supervisors

Laserfiche technology has allowed our staff the efficiency and convenience of viewing client files from any workstation in the office, or when working remotely.

Linda—Santa Cruz County Housing Authority

I rely on ECS Imaging to provide prompt and professional support with my Agenda Manager and Laserfiche programs. They have never let me down!

Renee—City of Union City

Everyone is very happy with your results, and the great tech support that your company provides. Every tech that I have dealt with makes Laserfiche winning software!

Maryann—Marin Community College District

With ECS Imaging's support, I am able to maintain a high level of system availability and keep my focus on other strategic IT initiatives.

Justin—Brown Metals

I wanted to extend my appreciation to ECS and it's team for all the help you've provided us in our efforts to begin using Laserfiche. You went above and beyond, I can't stress enough how reliable and helpful ECS has always been, and it's a pleasure to work with such a great team.

Sue—Riverside County Human Resources

We can always rely on ECS Imaging to provide answers to our questions. The technical staff is extremely knowledgeable and professional. They have a real knack for finding innovative solutions to issues in our day-to-day business process.

Lisa—Sweetwater Union High School District

ECS Imaging Inc.
Your World Class Laserfiche Provider

Corporate Offices

877-790-1600
www.ECSImaging.com
sales@ECSImaging.com



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City of Brea
City of Brentwood
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City of Chula Vista
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City of Kerman
City of Lake Elsinore
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City of La Mirada
City of La Palma
City of La Quinta
City of La Verne
City of Lathrop
City of Lemon Grove
City of Livermore
City of Lomita
City of Los Alamitos
City of Lynwood
City of Morgan Hill
City of Oakdale
City of Patterson
City of Pismo Beach
City of Placentia
City of Pomona
City of Rancho Cucamonga
City of Rancho Palos Verdes
City of Redwood City
City of Riverbank
City of San Dimas
City of San Leandro
City of San Luis Obispo
City of San Pablo
City of San Ramon
City of Santa Paula
City of Saratoga
City of Signal Hill
City of Solvang
City of South Lake Tahoe
City of South San Francisco
City of Stanton
City of Temecula
City of Tracy
City of Twenty-nine Palms
City of Tustin
City of Ukiah
City of Union City
City of Vacaville
City of Vernon
City of Vista
City of Walnut
City of West Hollywood
Town of Tiburon
Town of Truckee
Town of Yucca Valley

Housing Authorities

City of Alameda Housing Authority
City of West Hollywood
Hawaii County Housing Authority
Livermore Housing Authority
Mississippi Regional Housing Authority, MS
Santa Cruz County Housing Authority

Law & Justice

Cal State University Los Angeles, Police
City of Alameda Police
City of Antioch Police
City of Atascadero Police
City of Beaumont Police
City of Burlingame Police
City of Chula Vista Police
City of Corona Police
City of Dublin Police
City of Kerman Police
City of La Palma Police
City of Livermore Police
City of Pittsburg Police
City of Placentia Police
City of Pomona Police
City of Redlands Police
City of San Bernardino Police
City of San Leandro Police
City of San Luis Obispo Police
City of San Pablo Police
City of San Ramon Police
City of Santa Paula Police
City of South Lake Tahoe Police
City of Tustin Police
City of Vernon Police
Contra Costa County Superior Court
El Dorado County Superior Court
Federal Public Defenders of San Diego
Hawaii County Prosecuting Attorney
Madera County District Attorney & Sheriff
Modoc County Court
Riverside County Sheriff
Riverside County Superior Court
San Bernardino County Superior Court
San Mateo County Superior Court
Santa Cruz County Superior Court
Stanislaus County Sheriff- DEA

Counties & Tribes

Contra Costa County Auditor-Controller
Contra Costa County Community Development
Contra Costa County Public Works
Hawaii County
Madera County
Morongo Band of Indians
Riverside County Children & Families Commission
Riverside County Human Resources
Riverside County LAFCO
Riverside County TLMA
San Bernardino County Architecture & Engineering
San Bernardino County Children Services
San Bernardino County LAFCO
Soboba Band of Luiseno Indians



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ECS TEAM

Special Districts

Cambria Community Services District
Central Basin Municipal Water District
Central Contra Costa Sanitary District
Chino Valley Fire District
Costa Mesa Sanitary District
Diablo Water District
East Valley Water District
Foothill Transit District
Fresno Irrigation District
Hayward Area Recreation & Park District
Hi-Desert Water District
Ironhouse Sanitary District
Lake Arrowhead Community Services District
Lakeside Fire Protection District
Mammoth Community Water District
Municipal Water District of Orange County
North County Transit District
Olivenhain Municipal Water District
Rincon del Diablo Municipal Water District
Soquel Creek Water District
South Tahoe Public Utility District
Tahoe Public Utility District
Walnut Valley Water District
Victor Valley Transit Authority

Commercial & Non-Profits

Beutler Corporation
California Administration Insurance Services, Inc.
Consolidated Personnel Services, AZ
Diocese of Sacramento
Family Services Association
First Foundation Bank
Garrett Engineering
ICC - International Code Council
ISD Corporation
LA Mission
Lennen Construction
Lustre-Cal
Pabrai Investment Funds
PARS
Pacific West Asset Management Corp
Planner's Network
Reneson Hotel Group
Surterre Properties Inc.
University Frames Inc.
Valley Insurance Program

Health Care

Alameda County Behavioral & Environmental Health
Crestwood Behavioral Health, Inc.
MedAmerica Billing Services, Inc.
Pierce Enterprises, Inc.
Queen of the Valley Medical Center
St. Mary Medical Center
Toiyabe Indian Health Project, Inc.
Valley Mountain Regional Center

Manufacturing & Distribution

Amini Innovation Corporation
Brown Metals Company
Diamond Foods
Esterline Palomar Products
Jifco Fabricated Piping
Meissner Manufacturing Company Inc.
Newport Meat Company
Orco Block
PJ's Building Materials & Rebar Fabrications
PPG Aerospace
Reuland Electric
Sierra Aluminum Company

Education

Alvord Unified School District
Antioch Unified School District
Barstow College
Bonita Unified School District
Capistrano Unified School District
Central Union High School District
Charter Oak Unified School District
Claremont Unified School District
Coachella Unified School District
Colton Joint Unified School District
Davis Jt. Unified School District
Del Norte County Schools
Fairfield Suisan Unified School District
Fillmore Unified School District
Fremont Unified School District
Fresno County Office of Education
Gateway Community College, AZ
Hacienda-La Puente Unified School District
Hanford Elementary School District
Imperial County Office of Education
Jurupa Unified School District
Kentfield School District
Kings County Office of Education
Lagunitas Unified School District
Lake Elsinore Unified School District
Lawndale Elementary School District
Lemon Grove School District
Long Beach Community College District
Los Angeles County Office of Education, Head Start
Los Angeles County Office of Ed, Human Resources
Los Angeles County Office of Ed, Juvenile Court Schools
Los Angeles County Office of Ed, Personnel Commission
Los Angeles County Office of Ed, School Financial Services
Madera Unified School District
Marin Community College District
Marin County Office of Education
Mill Valley School District
Monterey Peninsula College
Moreno Valley Unified School District
Pegasus School
Parlier Unified School District
Placentia-Yorba Linda Unified School District
Pomona Unified School District
Rio Hondo Community College
San Benito County Superintendent of Schools
San Bernardino City School District
San Lorenzo Unified School District
San Mateo-Foster City Elementary School District
San Ramon Valley Unified School District
Santa Ana College
Santa Ana Unified School District
Santa Clara County Office of Education
Santiago Canyon College
Selma Unified School District
Shoreline Unified School District
South Whittier School District
Stanislaus County Office of Education
Sunnyvale School District
Sweetwater Union High School District
Tamalpais Union High School District
University of Southern California
Vacaville Unified School District
Val Verde Unified School District
Valley Center Pauma Unified School District
West Valley Mission Community College
Whittier Union High School District



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City of Duarte

Sixteen Hundred Huntington Drive, Duarte, California 91010-2592
Tel 626-357-7931 FAX 626-358-0018 www.accessduarte.com

April 14, 2015

The Honorable Brian Maienschein, Chair
Assembly Local Government Committee
P. O. Box 942849, Room 4139
Sacramento, California 94249-0077
FAX (916) 319-2077

**ASSEMBLY BILL 45 (Mullin) (AMENDED MARCH 19, 2015) – OPPOSE
SOLID WASTE: HOUSEHOLD HAZARDOUS WASTE**

Dear Assembly Member Maienschein:

The City of Duarte **opposes** Assembly Bill 45, as this bill would, among other things, require jurisdictions to conduct an expensive and detailed waste characterization study in order to establish a baseline of their household hazardous waste (HHW) collection activities and to increase their HHW collection and diversion rate above the established baseline by an unspecified amount.

As an active participant in the Los Angeles County Countywide HHW Program (Program), the City of Duarte and our residents benefit from being part of the largest and most successful HHW program in the nation. The program serves all 88 cities and unincorporated County communities through a combination of permanent collection centers and mobile collection events. The program was recently evaluated and found to be the most effective, efficient, and convenient method for HHW collection. AB 45 would eliminate the benefit of participating in this County-wide program by requiring our City to increase its collection and diversion of HHW independently.

The only way AB 45 would allow the City of Duarte to have more time to comply with the new diversion and collection requirements is for us to enact an ordinance which would implement a curbside collection program, door-to-door collection program, or residential pickup services for HHW. As such, we would have to renegotiate our existing franchise agreement with our waste hauler, Burrtec Waste Industries, which would cause an increase in our residents' current monthly solid waste and recycling rate by an unspecified amount. It would further require our City to quantify the amount of HHW being generated, recycled/diverted, and disposed of by our residents on an annual basis, and then report to CalRecycle on progress achieved toward compliance with these new requirements. This provision, coupled with the baseline establishment requirement, effectively returns the State back to the ineffective and resource draining mathematical compliance (bean counting) of years past. In conclusion, the requirements would needlessly place a significant financial burden on our City at a time when we do not have the resources to spare.

For these reasons, the City of Duarte **opposes** AB 45. Should you have any questions, please contact Deputy City Manager Karen Herrera at (626) 357-7931 x221.

Sincerely,

Tzeitel Paras-Caracci
Mayor

cc: Assembly Member Kevin Mullin
Members of the Assembly Local Government Committee
Los Angeles County Integrated Waste Management Task Force, FAX (626) 458-3569

INTRODUCED BY Assembly Member Mullin

DECEMBER 1, 2014

An act relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as introduced, Mullin. Household hazardous waste.

Existing law authorizes public agencies to operate curbside household hazardous waste collection facilities, door-to-door household hazardous waste collection programs, and household hazardous waste residential pickup services, and specifies conditions for the transportation of household hazardous waste.

This bill would express the Legislature's intent to enact legislation that would establish curbside household hazardous waste collection programs, door-to-door household hazardous waste collection programs, and household hazardous waste residential pickup services as the principal means of collecting household hazardous waste and diverting it from California's landfills and waterways.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Household hazardous waste is creating environmental, health, and workplace safety issues. Whether due to unused pharmaceuticals, batteries, medical devices, or other disposable consumer items, effective and efficient disposal remains an extraordinary challenge.

(2) State and local efforts to address disposal of these items have been well intended, but ultimately these piecemeal and truncated approaches have not proved effective. These approaches fragment the collection of household hazardous waste and move collection away from the closest and most practical point of disposal: the consumer's residence.

(3) A number of cities in California are already using curbside household hazardous waste collection programs, door-to-door household hazardous waste collection programs, and household hazardous waste residential pickup services as mechanisms for collecting and disposing of many commonly used household items for which disposal has been the subject of state legislation or local ordinances. The waste disposal companies and local governments that have implemented these programs and services have found them to be successful and inexpensive.

(b) It is the intent of the Legislature to enact legislation that would establish curbside household hazardous waste collection programs, door-to-door household hazardous waste collection programs, and household hazardous waste residential pickup services as the principal means of collecting household hazardous waste and diverting it from California's landfills and waterways.



City of Duarte

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Tel 626-357-7931 FAX 626-358-0018 www.accessduarte.com

April 14, 2015

Senator Ed Hernandez
California State Senate
State Capitol, Room 2080
Sacramento, CA 95814

**SENATE BILL 485 (Hernandez) – SUPPORT
STORMWATER: COUNTY SANITATION DISTRICTS OF LOS ANGELES**

Mayor
Tzeitel Paras-Caracci
Mayor Pro Tem
Samuel Kang
Councilmembers
John Fasana
Margaret E. Finlay
Liz Reilly
City Manager
Darrell George

Dear Senator Hernandez:

On behalf of the City of Duarte, I am writing in support of SB 485, which would authorize the Sanitation Districts of Los Angeles County to manage stormwater and dry weather urban runoff. The City of Duarte is a member of Sanitation Districts #15 and #22 of Los Angeles County. SB 485 would provide another option or tool to assist cities in meeting the requirements of the Los Angeles Region's municipal stormwater permit.

Most of the cities in Los Angeles County, the County, and the Flood Control District are charged in the municipal stormwater permit with implementing new best management practices and water quality projects that will meet the requirements of 33 Total Maximum Daily Loads (TMDLs), which is expected to cost millions of dollars per year. The challenges posed by these requirements were analyzed in a recent report completed by the Los Angeles County Division of the League of California Cities and the California Contract Cities Association. The report recommended, among other things, that the Sanitation Districts' statute be changed to authorize them to assist the cities in managing stormwater and dry weather urban runoff. This change will allow the Sanitation Districts to use its civil engineering and water quality expertise to help the cities and County comply, in an efficient and effective manner, with the Los Angeles Region's municipal stormwater permit.

For these reasons, we thank you for introducing SB 485, and are pleased to support this important legislation. If you have any questions, please contact Deputy City Manager Karen Herrera at (626) 357-7931, or herrerakaren@accessduarte.com.

Sincerely,

Tzeitel Paras-Caracci
Mayor

cc: Senator Carol Liu, FAX (916) 651-4925
Assembly Member Anthony Rendon, FAX (916) 319-2158
Assembly Member Cristina Garcia, FAX (916) 319-2163
Sharon Green, Los Angeles County Sanitation Districts, sgreen@lacsc.org
Kristine Guerrero, Los Angeles County Division, LOCC, kguerrero@cacities.org

INTRODUCED BY Senator Hernandez
 (Coauthor: Senator Liu)
 (Coauthors: Assembly Members Cristina Garcia and Rendon)

FEBRUARY 26, 2015

An act to add Section 4730.68 to the Health and Safety Code,
relating to public sanitation.

LEGISLATIVE COUNSEL'S DIGEST

SB 485, as introduced, Hernandez. County of Los Angeles:
sanitation districts.

The County Sanitation District Act authorizes a sanitation
district to acquire, construct, and complete certain works, property,
or structures necessary or convenient for sewage collection,
treatment, and disposal.

This bill would authorize specified sanitation districts in the
County of Los Angeles, to acquire, construct, operate, maintain, and
furnish facilities for the diversion, management, and treatment of
stormwater and dry weather runoff, the discharge of the water to the
stormwater drainage system, and the beneficial use of the water.

This bill would make legislative findings and declarations as to
the necessity of a special statute for the County of Los Angeles.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the
following:

(a) The county sanitation districts of Los Angeles County
(sanitation districts) were established in 1923 under the County
Sanitation District Act (Chapter 3 (commencing with Section 4700) of
Part 3 of Division 5 of the Health and Safety Code).

(b) The sanitation districts provide regional solid waste
management and wastewater collection and treatment services for 5.5
million people in 78 cities and unincorporated communities.

(c) Eighty-four cities in Los Angeles County, the Los Angeles
County Flood Control District, and Los Angeles County unincorporated
areas are all regulated under a permit for the Municipal Separate
Storm Sewer System (MS4), the most recent of which was adopted by the
California Regional Water Quality Control Board, Los Angeles Region,
in December 2012.

(d) The City of Long Beach is regulated under its own permit for
its MS4, the most recent of which was adopted by the regional board
in February 2014.

(e) The MS4 is a large interconnected system that encompasses over
3,000 square miles, and is controlled in large part by the Los
Angeles County Flood Control District and used by multiple cities
along with Los Angeles County.

(f) The Los Angeles County Flood Control District is primarily
focused on operation and maintenance of the larger, downstream MS4

infrastructure into which the smaller, upstream city MS4 infrastructure discharges.

(g) This extensive system conveys stormwater and non-stormwater across municipal boundaries where it is commingled within the MS4 and then discharged to receiving water bodies, such as the Los Angeles River and San Gabriel River.

(h) It will be necessary for the cities, Los Angeles County Flood Control District, and Los Angeles County to spend millions of dollars per year to comply with the Los Angeles Region MS4 permits.

(i) The Los Angeles Region MS4 permits prohibit the discharge of non-stormwater discharges to MS4 (unless authorized under another permit or specifically exempted from the MS4 permit), and one management technique that can be effective in cleaning up non-stormwater discharges is to divert dry weather runoff into the sanitary sewer system, if sewer and treatment plant capacity are available and other regulatory requirements are met.

(j) Many of the cities, the Los Angeles County Flood Control District, and Los Angeles County are preparing watershed management plans and enhanced watershed management plans in order to identify stormwater and dry weather urban runoff projects and activities that will bring the MS4 under their jurisdiction into compliance with the Los Angeles Region MS4 permits.

(k) The presiding officers of the cities and the Chairman of the County Board of Supervisors serve as members of the boards of directors of the sanitation districts.

(l) The administrative board of directors of the sanitation districts formally requested that the Sanitation Districts seek the authority to use its civil engineering and water quality expertise to help the cities and county manage stormwater and dry weather urban runoff in order to comply in an efficient and effective manner with the Los Angeles Region MS4 permit.

(m) Because of the unique circumstances of the sanitation districts and the Los Angeles Region MS4, special legislation is necessary to augment the sanitation districts' powers under the County Sanitation District Act.

SEC. 2. Section 4730.68 is added to the Health and Safety Code, to read:

4730.68. (a) This section applies only to county sanitation district numbers 1, 2, 3, 4, 5, 8, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, and 34 of Los Angeles County, Newhall Ranch Sanitation District, South Bay Cities Sanitation District of Los Angeles County, and Santa Clarita Valley Sanitation District of Los Angeles County, and any new county sanitation district subsequently formed in the County of Los Angeles. The powers granted in this section supplement the existing powers of each district.

(b) A district may acquire, construct, operate, maintain, and furnish facilities for any of the following purposes:

(1) The diversion of stormwater and dry weather runoff from the stormwater drainage system within the district.

(2) The management and treatment of the stormwater and dry weather runoff.

(3) The discharge of the water to the stormwater drainage system or receiving waters.

(4) The beneficial use of the water.

(c) In order to carry out the powers and purposes granted under this section, the district may exercise any of the powers otherwise granted to a district by this chapter to the extent those powers may be made applicable.

(d) This section does not affect any obligation of a district to obtain a permit that may be required by law for the activities undertaken pursuant to this section.

(e) For purposes of this section, "stormwater" and "dry weather runoff" have the same meaning as in Section 10561.5 of the Water Code.

(f) Nothing in this section shall be construed to require any local agency to participate, financially or otherwise, in a project pursued under the authority granted by this section.

(g) This section is not intended to alter any of the following:

(1) Existing water rights, including any adjudicated rights.

(2) Existing water rights law.

(3) Any rights, remedies, or obligations that may exist pursuant to Article 1 (commencing with Section 1200) of Article 1.5 (commencing with Section 1210) of Chapter 1 of Part 2 of Division 2 of the Water Code, or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the County Sanitation Districts of Los Angeles County.



Duarte Youth & Family Committee

MEMORANDUM

TO: Duarte City Council

FROM: Youth & Family Committee

SUBJECT: Recruitment of New Committee Members

DATE: March 24, 2015

The Youth & Family Committee would like to thank the members of the Duarte City Council for their support of the Committee's efforts to encourage Initiators to implement the Youth and Family Master Plan Action Steps and the development of the Annual Report Card. The Committee also gratefully accepts the Council's offer to assist in the recruitment of more Committee members and respectfully requests that the Council make every effort to find additional members to sit on the Youth and Family Committee. Thank you.



Duarte Youth & Family Committee

MEMORANDUM

TO: Duarte City Council

FROM: Youth & Family Committee

SUBJECT: Meeting Location Change

DATE: March 24, 2015

The Youth & Family Committee has voted to change the regular meeting location to Foothill Family Service's (FFS) Conference Room. Foothill Family Service has a newly renovated building and meeting rooms and is a welcoming facility that may provide greater opportunities for community interactions that are associated through FFS and may enhance the Committee's efforts to encourage Initiators to implement their assigned Action Steps.

The Committee requests formal approval of this change by the Duarte City Council.

Legal Notice	Legal Notice	Legal Notice	Legal Notice	Legal Notice	Legal Notice
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CITY COUNCIL - NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that pursuant to State Law, the City Council of the City of Duarte will hold a Public Hearing at 7:00 p.m., on Tuesday, April 14, 2015 in Council Chambers, 1600 Huntington Drive, Duarte, California, to consider the following:

Municipal Code Amendment 14-05: The City Council will consider Municipal Code Amendment 14-05, a City-initiated request to (1) amend sections 19.160.140 "M'Definitions" and 16.160.170 "P'Definitions," both to Chapter 19.160 "Definitions," to Article 9 "Definitions," to Title 19 "Planning and Zoning," of the Duarte Municipal Code to amend certain definitions that are applicable in the regulations of massage establishments, and (2) add section 19.60.112 "Massage Establishments" to Chapter 19.60 "Standards for Specific Land Uses and Activities," to Article 4 "Standards for Specific Land Uses and Activities," to Title 19 "Planning and Zoning," of the Duarte Municipal Code to add certain standards applicable to massage establishments. On January 20, 2015, the Planning Commission unanimously approved Planning Commission Resolution 14-04, recommending the City Council adopt proposed Municipal Code Amendment 14-05. On February 24, the City Council opened the public hearing, received testimony, and voted to have the Planning Commission reconsider the floor area requirement for new massage establishments. On March 16, the Planning Commission clarified its recommendation regarding the minimum floor area of a new massage business.

Municipal Code Amendment 14-06: The City Council will consider Municipal Code Amendment 14-06, a City-initiated request to amend, delete, and/or replace the following provisions of Chapter 5.56, "Massage Establishments," of Title 5, "Business Licenses and Regulations," of the Duarte Municipal Code: (1) amend Section 5.56.010 "Purpose and intent," (2) amend Section 5.56.020 "License required," (3) delete Section 5.56.030 "Business license required; inspection of premises; notification to city," (4) replace section 5.56.040 "Display of permit and certifications" with section 5.56.040 "Massage Establishment Business license required; inspection of premises; notification to city" (5) replace Section 5.56.050 "Attire and physical hygiene requirements," with "Section 5.56.050 "Out-call massage prohibited," (6) replace section 5.56.060 "Ventilation requirements" with Section 5.56.060 "Display of permit and certifications," (7) replace Section 5.56.070 "Reception area separate from customer waiting area; screening of openings," with Section 5.56.070 "Massage School Prohibited," (8) replace Section 5.56.080 "Lighting in parking lot," with Section 5.56.080 "Attire and physical hygiene requirements," (9) replace Section 5.56.100 "Unlocked exterior doors," with Section 5.56.100 "Reception area separate from customer waiting area; screening of openings," (10) replace Section 5.56.110 "Locked interior doors prohibited," with Section 5.56.110 "Lighting in parking lot," (11) replace Section 5.56.120 "Unobstructed Opening required," with Section 5.56.120 "Construction," (12) replace Section 5.56.130 "Cleanliness," with Section 5.56.130 "Unlocked exterior and interior doors; video security," (13) replace Section 5.56.150, "Bathing, dressing, and toilet facilities," with Section 5.56.150 "Cleanliness," (14) replace Section 5.56.160 "Washbasins," with Section 5.56.160 "Separate rooms and group massage" (15) replace Section 5.56.170 "Service to minors," with Section 5.56.170 "Genders served. Lockers, dressing, and toilet facilities," (16) replace Section 5.56.180 "Harmful displays," with Section 5.56.180 "Washbasins," (17) replace Section 5.56.190 "Permitted hours," with Section 5.56.190 "Service to Minors," (18) replace Section 5.56.200 "List of services displayed," with Section 5.56.200 "Harmful displays," (19) replace Section 5.56.210 "Records," with Section 5.56.210 "Permitted hours," (20) replace Section 5.56.220 "Prohibited procedures," with Section 5.56.220 "List of services displayed," (21) replace Section 5.56.230 "Restrictions on garments provided," with Section 5.56.230 "Records of services rendered," (22) replace Section 5.56.240 "Restrictions on grooming and hygiene products provided," with Section 5.56.240 "Records of employees and independent contractors," (23) replace Section 5.56.250 "Required footwear while showering," with Section 5.56.250 "Advertisement," (24) add Section 5.56.255 "Prohibited procedures," (25) replace Section 5.56.260 "Prohibited conduct," with Section 5.56.260 "Restrictions on garments provided," (26) replace Section 5.56.270 "Alcohol prohibited," with Section 5.56.270 "Restrictions on grooming and hygiene products provided," (27) replace Section 5.56.280 "Minors-Employment or services prohibited," with Section 5.56.280 "Required footwear while showering," (28) replace Section 5.56.290 "Violations of a public nuisance, penalties and nuisance abatement," with Section 5.56.290 "Prohibited conduct," (29) replace Section 5.56.300 "Exemptions from chapter," with Section 5.56.300 "Alcohol and non-prescription drugs prohibited," (30) add Section 5.56.310 "Minors-Employment or services prohibited," (31) add Section 5.56.320 "Violations of a public nuisance, penalties and nuisance abatement; license revocation for repeated violations; notifications to Landlord," (32) add Section 5.56.330 "Management; liability of management," (33) add Section 5.56.340 "Exemptions from chapter," (34) add Section 5.56.350 "Compliance with applicable laws," and (35) add Section 5.56.360 "Pre-existing massage establishments." Furthermore, The City Council of the City of Duarte hereby terminates the Moratorium enacted through the adoption of Ordinance No. 851.

The proposed municipal code amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the following exemptions, each of which is independently sufficient to support the City's environmental determination. (1) Title 14 California Code of Regulations Section 15061(b)(3), in that it can be seen with certainty that the adoption of the municipal code amendments propose no activity that may have a significant effect on the environment, (2) Title 14 California Code of Regulations Section 15301, in that the municipal code amendments involve no expansion of use of existing facilities, and (3) Title 14 California Code of Regulations Section 15378, in that the municipal code amendments are not a project under CEQA because they will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. All of these exemptions apply to all of the proposed municipal code amendments because all of the proposed municipal code amendments are regulatory measures that do not involve a land use application.

Any interested party may appear in person, or by agent, and be heard. If this matter is challenged in Court, there will be a limit to only those issues that were raised at the Public Hearing described in this Notice, or in written correspondence delivered to the City Council at, or prior to, the Public Hearing. Written correspondence may be sent to Duarte City Hall, City Clerk's Office, at 1600 Huntington Drive, Duarte, CA 91010.

For further information regarding this application, please contact Jason Golding, Senior Planner in the Community Development Department, 1600 Huntington Drive, Duarte, CA., 91010, Monday through Thursday at (626) 357-7931, ext. 231, between the hours of 7:30 a.m. and 6:00 p.m.

Marla Akana
City Clerk

PUBLISH: Duartean - Saturday, April 4, 2015

POSTED: Duarte City Hall, Duarte Public Safety Office, Duarte Library - Thursday, April 2, 2015

Para información en Español, favor de llamar a City Hall de Duarte, (626) 357-7931.

Published: Duartean AD#650338



MEMORANDUM

Date: April 14, 2015

To: Mayor and City Council

From: Jason Golding, Senior Planner 

Subject: **Modifications to Municipal Code Amendment 14-05 and 14-06 since the first public hearing held on February 24, 2015.**

Attached for City Council consideration are Municipal Code Amendment (MCA) 14-05 (Ordinance 15-O-02) and MCA 14-06 (Ordinance 15-O-03). Both of these items were originally brought before the City Council at a public hearing on February 24, 2015. A new public hearing notice for tonight's meeting was advertised for both code amendments.

Municipal Code Amendment 14-05

On February 24, the Council held a public hearing and discussed proposed subsection 19.60.112.C.1 of MCA 14-05, which required a minimum 2,000 square foot (s.f.) gross owned or leased floor area for new massage establishments. During deliberation, several different ideas were considered, including: maintaining a 2,000 s.f. minimum, reducing the floor area requirement, or completely eliminating any minimum massage establishment size. Public testimony was taken from one person who currently operates a 1,200 s.f. wellness center that they plan on converting to a massage business after consideration of the ordinances; they expressed their concern over the minimum lease area requirement. The Council did not introduce the Ordinance and instead referred the issue of minimum massage establishment floor area back to the Planning Commission for further consideration. On March 16, the Planning Commission clarified its recommendation (4-1-0-0), proposing a minimum 1,200 square foot floor area requirement for a new massage business. Staff prepared additional analysis on the floor area requirement issue for use by the Planning Commission. This memorandum is attached to the City Council staff report.

The staff report for MCA 14-05 being considered tonight by the City Council remains identical to the one considered on February 24, 2015, except for the modifications related to a minimum floor area requirement for new massage establishments.

Municipal Code Amendment 14-06

The staff report and Ordinance 15-O-03 were presented and a public hearing was conducted for MCA 14-06 at the February 24 City Council Meeting. The Council decided to continue this item to a future council meeting.

The staff report and Ordinance remain unchanged from the previous meeting, except for three proposed modifications:

- Chapter 5.56.100 - additional language on window coverings for interior doors/windows;

- Chapter 5.56.160 - rewritten section dealing with separate room requirements based upon gender and limitations on group massage; and
- Chapter 5.56.170 - clarification on serving both genders, clarification about providing separate gender dressing and toilet facilities, and deletion of a requirement that showers be provided to each gender.



CITY COUNCIL STAFF REPORT

Date: April 14, 2015

To: Mayor and City Council

Location: City-wide

Project: **Municipal Code Amendment 14-05;** A city-initiated request to (1) add Duarte Development Code sections 19.60.112, to provide locational and development standards for massage establishments; and (2) modify certain definitions appearing in Duarte Development Code Chapter 19.160 to more clearly address the City's regulations of massage establishments.

Municipal Code Amendment 14-06; A City-initiated request to amend, delete, and/or replace Chapter 5.56, "Massage Establishments," of Title 5, "Business Licenses and Regulations," of the Duarte Municipal Code.

SUMMARY

Current massage laws, enacted in 2008 under SB 731, placed severe limitations to how and what cities can regulate related to the massage industry. After several years working under SB 731, the City has experienced a series of problems dealing with massage businesses, including frequent turnover of massage technician staff and management, unapproved floor plan modifications, recordkeeping issues and on one occasion, an arrest for prostitution. As a result of these issues and numerous requests for new massage businesses, the City Council adopted a moratorium this past summer on the issuance of massage business licenses in order to provide time for Staff to research and properly evaluate the City's massage regulations.

On January 1, AB 1147 came into effect, which revised State law to allow cities additional authority in adopting land uses regulations, operational requirements, amongst other regulations pertaining to massage businesses. MCA 14-05 proposes a set of new developmental and locational land use standards that are designed to accommodate massage businesses but with regulations to address the minimum size of the lease/building area these business can operate in; requiring increased transparency and visibility into the frontages of these lease areas; implementing lighting requirements; creating and expanding the definition of massage establishments; and categorizing massage businesses into a more restrictive land use category. MCA 14-06, pertains to modifying, adding and deleting multiple sections of the existing Chapter 5.56 of the Duarte Municipal Code, including but not limited to topics such as: regulation of massage technician licenses, operational standards, recordkeeping, violations and pre-existing/non-conforming massage businesses.

MCA 14-05 and 14-06 are being brought before the City Council to bring our current massage ordinance (DMC 5.56) into compliance with new State massage laws that became effective January 1st; and to provide clear locational, developmental and operational standards for new

massage businesses. These modifications are designed to promote legitimate massage businesses that will enhance and compliment the City's commercial centers, while addressing health and safety concerns and creating enforcement mechanisms for controlling illicit operators.

BACKGROUND

In 2008, the State passed SB 731, which changed the ability of local governments to regulate the massage industry. A second primary goal of SB 731 was to establish the California Massage Therapy Council ("CAMTC"). CAMTC is a private nonprofit public benefit corporation that is tasked with creating and implementing a voluntary certification program for the massage therapy profession; ensuring that certified massage professionals have completed sufficient training at approved schools; and approving massage schools. One of the unintended consequences of this law was that massage establishments had fewer regulations than most other businesses since SB 731 prohibited local governments from regulating or enacting ordinances for a business that employs certified massage therapists unless the requirements are "no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services". From 2008 until recently, many cities including Duarte, have had law enforcement issues with many massage business acting in disguise as brothels or as fronts for human trafficking. Code enforcement and zoning professionals have also had difficulties in monitoring many business that have frequently had changes in ownership/management and floor plan changes that result in modifications from approved plans. At the same time, Community Development Department Staff experienced a large influx of massage business applicants. Due to these concerns, the City Council adopted a moratorium on establishing, locating or operating massage establishments (including issuing business licenses or zoning clearances) on July 8, 2014. On August 12, the Council adopted an extension to this moratorium, which is set to expire on July 7, 2015.

As a result of these concerns, amongst other issues related to massage technician licensing, many local jurisdictions and law enforcement professionals lobbied the State Legislature to revise massage laws and return local control back to municipalities. AB 1147 was signed into law by Governor Brown on September 18, 2014 and became effective the first of this year. The bill authorizes a complete revision of the law pertaining to massage therapy, including returning land use control back to the cities and modifications to how massage technicians are certified. This law intends on returning local authority in regards to regulating massage businesses and massage technicians and also reducing incidences of human trafficking and prostitution.

Since 2008, the City has seen a large increase in the number of massage business license requests and has permitted several massage establishments. Five (5) massage businesses are currently operating in the City:

1. 1163 Huntington Drive - East Meets West Spa
2. 1740 Huntington Drive, #310 - Rainbow Spa
3. 1802 Huntington Drive, #D - Foot & Body Spa

4. 2138 Huntington Drive - Lucky Star Massage
5. 2163 Huntington Drive - Duarte Foot & Body Massage

All of these businesses occupy smaller lease spaces, the largest being 1,480 s.f. and the average lease area being 1,188 s.f.. Furthermore, except for East meets West Spa, these establishments occupy space in smaller, older and/or less maintained shopping centers or buildings. This usually translates into less expensive lease rates.

In discussions with our Public Safety Department, there has been both criminal and/or municipal code violations related to massage establishments in the City. One arrest for prostitution has occurred at one of the five massage businesses listed above. Due to the sheer influx of massage businesses throughout the County since passage of SB 731, the Los Angeles County Sheriff's Department has had challenges in providing the necessary resources to investigate and prosecute illicit business activities at massage businesses in their contract communities. This circumstance has created additional pressure on cities, especially the Code Enforcement and Planning Divisions, in enforcing municipal codes and massage regulations. Many Public Safety resources have been used in enforcing provisions of our current Massage Ordinance. All of the above businesses have had Municipal Code violations, primarily being: change of floor plans, unlicensed massage technicians, locked doors, and insufficient records. Furthermore, many of the current massage establishments have frequent management and staffing (technicians) turnover, creating the need for City staff to reeducate, reinspect and schedule more frequent investigations to ensure local regulations are being met.

On January 20, 2015, a public hearing for MCA 14-05 was conducted before the Duarte Planning Commission. The Commission unanimously approved PC Resolution 14-04, recommending City Council approval of MCA 14-05. Since MCA 14-06 does not affect the Duarte Development Code, the Planning Commission was not required to provide a formal recommendation to the City Council on that amendment. Staff did, however, provide the Commission with an informational copy of the proposed changes to Chapter 5.56 of the Duarte Municipal Code - an early version of ordinance 15-O-03. The Commission presented some of their initial concerns and questions at the meeting. An email summarizing the Commission's comments on MCA 14-06 has been attached for the Council's reference (Exhibit A).

On February 24, the Council held a public hearing and discussed proposed subsection 19.60.112.C.1 of MCA 14-05, which required a minimum 2,000 square foot (s.f.) gross owned or leased floor area for new massage establishments. During deliberation, several different ideas were considered, including: maintaining a 2,000 s.f. minimum, reducing the floor area requirement, or completely eliminating any minimum massage establishment size. Public testimony was taken from one person who currently operates a 1,200 s.f. wellness center that they plan on converting to a massage business after consideration of the ordinances; they expressed their concern over the minimum lease area requirement. The Council did not introduce the Ordinance and instead referred the issue of minimum massage establishment floor area back to the Planning Commission for further consideration. On March 16, the Planning Commission clarified its recommendation (4-1-0-0), proposing a minimum 1,200

square foot floor area requirement for a new massage business. Staff prepared additional analysis on the floor area requirement issue for use by the Planning Commission (Exhibit D). A staff report for MCA 14-06 and related Ordinance 14-O-03 was also presented to the Council on February 24. This item was continued to a future meeting with a date uncertain.

ANALYSIS

The current moratorium allowed staff time to analyze and discuss community, regional and State-wide concerns about deficiencies in current law and to create locational, developmental and operational standards that aims to allow true massage operations, while discouraging and provide enforcement mechanisms for illegitimate massage businesses and massage technicians. These proposed municipal code amendments give the City new regulations to require larger, more transparent and appropriately illuminated massage businesses; a requirement to obtain a conditional use permit for new massage businesses; updated tools to require proper massage technician licensing verification, health and hygiene standards, security procedures and other operational requirements; and strengthened enforcement mechanisms to ensure both the business and technicians operate within the rules of the City. Each section below further summarizes each proposed municipal code amendments described in the attached Ordinances.

Municipal Code Amendment 14-05 - Duarte Development Code Chapters 19.60.112 & 19.160

MCA 14-05 (Exhibit B - Ordinance 15-O-02) is one of two code amendments intended to update and regulate massage businesses throughout the City. Unlike MCA 14-06, which primary deals with how massage businesses operate, MCA 14-05 provides new locational and developmental land use standards related to the establishment of a new massage business within the City, amends the definition of massage within the context of the Development Code and places massage establishments in a more restrictive land use category. The primary intentions of MCA 14-05 are to permit only larger massage establishments than can provide adequate space for a receptionist area; provide transparency and visibility into the front area of the business; illuminate portions of these properties to ensure public safety and discourage illicit activities, and requiring new massage establishments obtain a conditional use permit.

Addition of Section 19.60.112 - Massage Establishments

The proposed amendment would add Section 19.60.112 to provide City standards specifically for massage establishments (Exhibit B - Section 1).

The first standard applies to the minimum size of the lease space or building required to locate a massage establishment. On March 16, 2015, the Planning Commission reconsidered the issue of minimum floor area for a massage establishment. Staff prepared a memorandum to further explore this topic (Exhibit D), which included: a summary of the floor areas of the five existing massage businesses in the City; discussion about recent experience with massage applicants

seeking smaller lease spaces in older, less maintained and smaller centers; a list of enforcement issues with the five massage business (all of which are located in lease spaces 1,500 s.f. or smaller); and an analysis of the estimated minimum lease space that would be needed to accommodate only the rooms and functions mandated by the proposed new ordinances and the typical miscellaneous space present in most floor plans. After receiving public testimony from the owner/operator of the Bellagio Wellness Center and one of her clients, the Planning Commission voted 4-1-0-0 to recommend to the City Council that a minimum floor area of 1,200 s.f. be required to establish a new massage business.

A second major part of MCA 14-05 relates to the creation and development of a required front desk/receptionist area and the regulation of minimum visibility into this area. Most current massage businesses have a small customer waiting area that is obscured from public view by building walls, dark tinting or opaque window coverings. In addition to providing privacy and intimacy for their customers, it also unfortunately lends to the reputation of massage businesses as a front for illegal activities. The proposed regulations intend on creating a minimum front desk/receptionist area that accomplishes two key objectives: requiring a massage business have a minimum of two employees (as required by MCA 14-06) which one may be a receptionist, and to increase the size of the business to encourage occupancy in larger and better maintained properties. The other portions of this requirement focus on creating a transparent and open environment. A 75% window minimum along the business's storefront will prohibit massage businesses that seek leasable space that minimizes visibility into the business or look for locations that have very long building frontages along the street, such as Lucky Star Massage. The final component requires that massage establishments maintain as much visibility into their business as possible. Understanding that massage businesses are designed to provide a tranquil environment, this proposed developmental regulation allows Staff to review, on a case-by-case basis, the appropriate level of opacity for each establishment. For instance, locations that face west may need additional window coverings to block the glare of the afternoon sun. For clarification, this code section does not require visibility beyond the front desk/receptionist area. MCA 14-06 addresses client privacy and the minimum standards related to window opacity for the massage rooms themselves.

The last component of Section 19.60.112 requires adequate illumination of the exterior (parking lot, entries and exits) of the premises. This requirement did not previously exist in our code language and Staff has experienced issues in the lighting levels associated with massage businesses. The proposed language will provide Staff an opportunity to review the specific layout of the business and decide where best to install or improve parking lot or building mounted lighting. This section intends on creating a safe and pleasing massage environment that will also prevent off-site glare and maintain abutting property owners desire for privacy.

Changes to Definitions Chapter (Ch. 19.160)

This Code Amendment also proposes changes to the definition section (Chapter 19.160) of the Duarte Development Code.

"Massage Establishment" has been added to Chapter 19.160.140 ("M" definitions) to provide a more thorough and up-to-date description of what activities constitute massage and a list of common synonyms used to describe massage services (Exhibit B - Section 2 & 3). This includes placing acupressure services under the Massage Establishment definition.

Under SB 731, the regulation of massage was to be "no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services". To meet State law, the City permitted massage businesses as an allowed use under the Personal Service Business-General land use category in all commercial zones, except Commercial-Freeway (C-F zone). The proposed modification to Chapter 19.160.170 ("P" definitions) achieves several things. First, "Massage Establishments" have been removed from the Personal Service-General definition and land use category and instead placed into the Personal Services-Restricted land use category and definition. Conditional use permit approval from the Planning Commission is required for all land uses within the Personal Services-Restricted category. Second, the definition of Massage Establishment under Personal Services-Restricted has been reinforced to require compliance with the two proposed amended code chapters (DDC Ch. 19.60.112 and DMC Ch. 5.56). Finally, acupressure has been stricken from Personal Services-General to coincide with the addition of acupressure under the Massage Establishment definition.

Municipal Code Amendment 14-06 - Duarte Municipal Code Chapter 5.56

AB 1147, which came into effect January 1 of this year, allows municipalities the opportunity to create specific community standards to regulate lawful massage businesses. The City Attorney's office has reviewed the proposed modifications to Chapter 5.56 of the Duarte Municipal Code to meet the new State law and to provide the City with reasonable operational standards and enforcement tools to allow lawful massage businesses while abating illicit operators and establishments.

MCA 14-06 revises, adds and deletes language from the City's existing Massage Establishment Chapter, provided in Duarte Municipal Code Chapter 5.56 (Exhibit C - Draft Ordinance 15-O-03). The majority of the Chapter remains as approved by the City Council through Ordinance 821, adopted July 13, 2010 and as amended through previous massage ordinances dating from 1960, 1971, 1974, 2001 and 2006. However, the modifications proposed in MCA 14-06 take into account recent experiences gained from the establishment of several massage businesses since passage of SB 731 and the associated issues encountered permitting, inspecting and regulating these types of uses. The proposed modifications are best analyzed by grouping the major topic areas covered by this code amendment: licensing, inspection and recordkeeping; health and hygiene; permitted and prohibited conduct; safety and security; enforcement, and pre-existing massage establishments.

Licensing, Inspection and Recordkeeping

Subchapters 5.56.010-060 and 5.56.230-240 pertains primarily to City business licensing requirements, massage technician licensing and training verification, opportunities for City

inspection, the display of certifications and permits, and recordkeeping for both services rendered and employees.

Major modifications from the current Chapter include a requirement to report change of massage technicians, management or business operations within five (5) business days; additional information required on the license applications; verification of proper legal identification for patrons and services rendered; new information required for employees and independent contractors; and minimum timeframes for the retention of employee or independent contractor information.

These changes are being requested due to several factors. Experience from both our city and other nearby municipalities have shown that massage businesses frequently change management, employees, floor plans and business operations. It is not uncommon to see a massage business begin with one set of owners and within a matter of months see the business transfer to another owner. In some cases, massage businesses in the City that have been established only for a few years, have changed ownership numerous times, some as frequent as twice per year. Furthermore, massage technicians have rotated through different establishments, some as frequently as weekly, with many bypassing the City verification and licensing process. It is suspected that these frequent changes, and the lack of verification of employees, contribute to human trafficking activities. These changes to Chapter 5.56 are designed to allow the City the opportunity to ensure proper licensure, understand the changes to the business plan or number of employees associated with new ownership, confirm payment of business license fees and allow Staff to inspect premises for conformance with City laws and Building Codes. Verification of patron identification and services rendered is designed to legitimize the use of massage services and discourage use of the establishment for illicit behaviors. Proposed recordkeeping language is intended to provide law enforcement with information that may help in the: prosecution or arrest of patrons who make sexual advances to employees or for enforcement of illicit services occurring within the establishment; and in the prevention of potential disease transmission, whereas, notification can be produced for patrons or employees who may have come into contact with communicable diseases.

Health and Hygiene

Subchapters 5.56.080, 5.56.150-180 and 5.56.260-280 focus on health and hygiene issues that are specific to massage establishments. Much of the existing language in our current massage establishment law has been maintained, including requirements for attire and hygiene requirements, toilet and dressing facilities, washbasin requirements, the handling of linens, improvement construction, cleanliness and required footwear and clothing.

A few substantial changes to this category of regulations include modifications to attire requirements superseded by the new State law under AB 1147 and the requirement for interior laundry facilities. The concern about laundry facilities is fairly common as most current massage businesses have installed unpermitted and potentially unsafe laundry facilities either on the outside of their buildings or within interior areas originally approved for other purposes. Other modifications to the existing code were made including: a requirement that all genders

must be served; clarification on massage rooms, dressing and toilet facilities to be separated by gender; and to add language related to group massage.

Permitted and Prohibited Conduct

MCA 14-06 proposes several alterations and additions to the Massage Establishment laws pertaining to allowed and prohibited business conduct. Massage schools are being prohibited under a new subchapter 5.56.070. Subchapter 5.56.190 defines what and how services can be provided to minors. Massage businesses would be required under subchapter 5.56.200 to display and provide only a list of services rendered at the location that met the definition of legitimate massage. Advertisements that suggests services other than those approved under the new Massage Establishment law would be prohibited under subchapter 5.56.250. The use of shower tables and shower rooms, where clients are provided a therapeutic bath and massage services, would be prohibited, along with other procedures and equipment, in subchapter 5.56.255. Subchapter 5.56.290 has been updated to met new State law and include additional restrictions on massage conduct, such as the touching of genitals or breast areas unless as directed by a physician. Language has been added to prohibit possession of non-prescription drugs and condoms or other prophylactics (subchapter 5.56.300).

These modifications have been added to address concerns faced by Public Safety professionals in both our City and the greater Los Angeles area. For instance, research conducted during the consideration of the massage moratorium (Ordinance 851) showed that several massage establishment locations within the City were advertised under "erotic massage parlor reviews" on websites known to list reviews for illicit massage parlors. Discussion amongst public safety professionals have also shown that shower tables and shower rooms have been disproportionately associated with illicit massage rather than lawful massage establishments.

Safety and Security

Subchapters 5.56.100, 5.56.120-130, and 5.56.210 address safety and security issues. MCA 14-06 proposes a requirement for the installation of obscured doors (without the use of additional window coverings) to all massage rooms, which would allow use of the massage room to be visually confirmed, but the identity of the room occupants would be protected. Subchapter 5.56.120 would mandate that two employees be staffed at all times to address concerns for employee safety and to require that businesses keep unlocked doors during their hours of operation. This section also adds a requirement that a video security system be installed to monitor entries, exits, reception areas and hallways of massage establishments and that the video data be retained for a minimum of 30 days. Hours of operation remains unchanged from 8:00 a.m. to 8:00 p.m.

Enforcement

Enforcement of massage establishments can be conducted in multiple ways. Criminal arrests and prosecution can occur through the Sheriff's Department enforcement of prostitution, human trafficking, and other criminal violations. New massage businesses will also be regulated through a conditional use permit, where violations of their conditions of approval are cause for a revocation hearing before the Planning Commission. Although these are all viable options, the

initial enforcement mechanism begins with strong language in our City's Massage Ordinance. MCA 14-06 is specifically designed to provide the necessary tools needed by our Public Safety Department to effectively deal with repeat violators and ensure that massage businesses operate in a lawful manner.

Subchapter 5.56.320 provides improved language to enforce the rules promulgated under the Massage Ordinance, creates a penalty system for repeat violators, and specifies property owner notification and potential penalties for owners who's tenants operate outside of the law. Penalties for violations will include a "three strikes" system, similar to that used in the Ordinance 848 related to the City's regulation of synthetic drugs. Violations could occur involving any of the operational standards and other laws described in the proposed Massage Ordinance. The first violation would cause a written warning to be issued advising both the business and property owner to cease the prohibited activity. A second violation, within a one-year period from the last violation, would yield a stronger written warning advising that further violations could result in revocation of the business license and a one-year prohibition on re-application for a business license. The third and final violation, within a one-year period from the last violation, would result in revocation of the business license and a prohibition on a reapplication/reissuance of a business license for a massage business at the violating location for one-year. Businesses who receive a third violation notice would be provided with appeal procedures pursuant to Chapter 5.04. A significant addition to the enforcement provisions involves notification and associated consequences for landowners. Each notice of violation, citation, conviction or license revocation would be provided to the property owner. This section was included to make property owners more cognizant of their tenants business operations and to help stave off issuance of a third violation, which results in a prohibition on a reapplication/reissuance of a business license for a massage business at the violating location for one-year. Finally language has been included by which violations involving criminal activity could result in immediate revocation of the business license and a one-year prohibition on reissuance of another massage business license at the location.

Pre-existing Massage Establishments

The proposed code amendments will result in all five existing massage establishment locations becoming "non-conforming uses". MCA 14-06 has been written to bring these existing businesses into compliance with the revised Massage Ordinance (DMC Chapter 5.56) within reasonable timeframes. If passed by the Council, City Staff will shortly thereafter inform existing massage establishments and their corresponding property owners about the new Code requirements, afford an opportunity to meet and discuss regulations with City Staff, and provide a list of materials and submittals required to begin the compliance process. Regulations pertaining to: licensing; inspections; recordkeeping; attire and hygiene requirements; employment; management; services to minors; list of displayed services; prohibited conduct, procedures and equipment; and violation provisions will be required within 120 days of notice by the City. The proposed ordinance will provide a little more than three (3) years for compliance with more complicated and costly physical and operational modifications (5.56.100 - reception area/obscured massage room doors, 5.56.130 - video security, 5.56.150(c) - interior laundry facilities, and/or 5.56.170 - separation of rooms by gender). Massage establishments that do

not meet the new Massage Ordinance will face enforcement actions to either comply with the new regulations or face revocation of their business license. These existing businesses will not be required to meet the locational and developmental standards required under Duarte Development Code 19.60.112 (MCA 14-05) or be obligated to obtain conditional use permit approval, unless they significantly modify their business operations, expand/enlarge, cease operations for more than 12 months or move to another location.

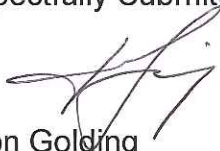
RECOMMENDATION

Staff believes that with the adoption of MCA 14-05 and its companion amendment, MCA 14-06, massage businesses can be properly regulated within the City's Commercial zones, reduce the instances of illegal business activities and provide opportunities for a personal service business that can compliment other services and retail businesses. In addition, approval of these code amendments would cease the moratorium on massage establishments, which was passed by the City Council as Ordinance 851 on August 12, 2014.

Staff recommends that City Council hold a public hearing, and review, consider and approve the proposed Ordinances in the following order:

1. **Municipal Code Amendment 14-05** (Exhibit B, Ordinance 15-O-02); to: (1) add Duarte Development Code sections 19.60.112, to provide locational and development standards for massage establishments; and (2) modify certain definitions appearing in Duarte Development Code Chapter 19.160 to more clearly address the City's regulations of massage establishments; and
2. **Municipal Code Amendment 14-06** (Exhibit C, Ordinance 15-O-03); to amend, delete, and/or replace Chapter 5.56, "Massage Establishments," of Title 5, "Business Licenses and Regulations," of the Duarte Municipal Code.

Respectfully Submitted,



Jason Golding
Senior Planner

ATTACHMENTS

Exhibit A – Planning Commission comments on MCA 14-06 - DMC Chapter 5.56 Amendments

Exhibit B – Ordinance 15-O-02; MCA 14-05

Exhibit C – Ordinance 15-O-03; MCA 14-06

Exhibit D – Memorandum to Planning Commission dated March 16, 2015 related to establishing a minimum floor area requirement for new massage businesses

From: Sheryl Lefmann slefmann@outlook.com
Subject: MCA 14-05 - Chapter 5.56 Input
Date: January 22, 2015 at 10:02 AM
To: Jason Golding goldingj@accessduarte.com
Cc: Craig Hensley chensley@accessduarte.com, Irma Hernandez hernandez@accessduarte.com, Noemi Hernandez hernandezn@accessduarte.com

Good morning Jason, et al,

I cannot believe how much work you have put into this. I don't think many people would think about the amount of work and research that goes into these things. Thanks for being so thorough.

As you requested in our Planning Commission meeting last night, below is my input specifically on the draft of Chapter 5.56 – Massage Establishments. I know you may have already addressed some of the earlier ones, but I want to make sure I didn't miss anything and also address typographical errors.

- 5.56.040(c) - Is five days enough time to review new services.
- 5.56.050 – Needs period at end of sentence, not comma.
- 5.56.130 – Heading needs period to be consistent with other headings.
- 5.56.130(d) – Suggest 30 days, not 7 days. This is more in line with other businesses requiring video surveillance.
- 5.56.130 – At the end there is a bolded “(a)” area with nothing attached following it.
- 5.56.180 – Suggest adding air dryers. This is ecologically friendly and actually more sanitary than paper or cloth.
- 5.56.230 – As I spoke about, I really have an issue with recording the complete address of the patron. I have tried to see the value of having it recorded, but don't see it. Also think about current requirements of businesses that sell certain OTC medicines. They record the ID, but not the address. Should this carry any more weight than a health and safety and/or business and professional code?
- 5.56.240 – Why is there no requirement to keep a copy of the Massage Therapy Council certificate on file?
- 5.56.255(g) – “shower tables [ADD DEFINITION]”. Self-explanatory.
- 5.56.320(a) – This is very hard to understand. I know it's legalize, but a little convoluted.
- 5.56.320(c) – “We need to add the requirement that . . .” I assume this is clean up language.
- 5.56.360 “We need to address quite a bit more . . .” Again, I assume this is additional clean up.

As was voiced by several commissioners during the meeting, enforcement is a concern I have as well on several fronts.

1. If enforcement is to be handled by our existing code enforcement staff, this seems like a lot of items to be cognizant of when researching or checking on businesses. Although its only five establishments at this time, it seems like a lot of work for our limited staff. Public Safety is always spread so thin that often checks are neglected unless there have been complaints filed against them. Not the most proactive stance to take.
2. Would these be administrative violations, infractions or misdemeanor? Can our public safety (code enforcement) officers cite for misdemeanors? If not, then we have to pull resources from LASD.

If you have any questions regarding my comments, please let me know.

Respectfully,

Sheryl

EXHIBIT A

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA (1) ADDING SECTION 19.60.112 "MASSAGE ESTABLISHMENTS" TO CHAPTER 19.60 "STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES," TO ARTICLE 4 "STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES," TO TITLE 19 "PLANNING AND ZONING," OF THE DUARTE MUNICIPAL CODE TO ADD CERTAIN STANDARDS APPLICABLE TO MASSAGE ESTABLISHMENTS; AND (2) AMENDING SECTIONS 19.160.140 "M' DEFINITIONS" AND 19.160.170 "P' DEFINITIONS," BOTH TO CHAPTER 19.160 "DEFINITIONS," TO ARTICLE 9 "DEFINITIONS," TO TITLE 19 "PLANNING AND ZONING," OF THE DUARTE MUNICIPAL CODE TO AMEND CERTAIN DEFINITIONS THAT ARE APPLICABLE IN THE REGULATIONS OF MASSAGE ESTABLISHMENTS (MCA 14-05)

THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1. SECTION 19.60.112 ADDED

Section 19.60.112 "Massage Establishments" to Chapter 19.60 "Standards for Specific Land Uses and Activities," to Article 4 "Standards for Specific Land Uses and Activities," to Title 9 "Planning and Zoning," of the Duarte Municipal Code is added in its entirety to read as follows:

19.60.112 - Massage Establishments.

- A. Purpose. This Section provides locational and developmental standards for massage establishments.
- B. Applicability. The provisions in this Section shall apply to Massage Establishments, including Accessory Massage uses, as defined in Article 9 and where allowed in compliance with Article 2 (Zones, Allowable Uses, and Development Standards), Chapter 5.56 of the Duarte Municipal Code.
- C. City standards. Massage Establishments shall comply with all of the following locational and developmental standards:
 - 1. Any Massage Establishment shall contain a minimum of 1,200 square feet of gross owned or leased floor area;
 - 2. There shall be a reception and front desk waiting area within the Massage Establishment, which shall be accessed directly through the front door of the premises and shall be used as a reception and waiting area for customers who are awaiting Massage services.
 - a. The reception/front desk area shall be no less than 200 square feet of the Massage Establishment floor area.

- b. The reception/front desk area shall be located at the front/side (corner) portions of the building and must be comprised of no less than 75% windows, as measured in area as a percentage of the total width and height of the front/side (corner) storefront elevations and as subject to the City's Site Plan and Design Review process.
 - c. The reception/front desk area shall be unobscured from view through the front and/or side (corner) windows through the use of curtains, drapes, louvers, shading devices, window tinting, furniture, displays or other methods that reduce visibility to where a reasonable person may not see into the establishment from the exterior of the premises.
3. Lighting at all Massage Establishments must be designed to illuminate both all off-street parking areas and all entries and exits serving any Massage business and/or establishment, subject to Planning Division approval of a Lighting and Illumination plan and subject to such additional requirements as may be imposed under Chapter 19.50.070 of the Duarte Municipal Code.

SECTION 2.**SECTION 19.160.140 AMENDED**

Section 19.160.140 to Chapter 19.160 "Definitions," to Article 9 "Definitions," to Title 19 "Planning and Zoning," of the Duarte Municipal Code is is amended as follows (deletion shown as ~~strike-out~~ and addition as underline):

19.160.140 - "M" definitions.

Market Rate Units. Dwelling units in a residential development that are not inclusionary units.

Manufactured Housing Unit. A dwelling unit which is either wholly or mainly manufactured at an off-site location and is assembled on site on a permanent foundation with permanent service connections. The definition does not include a mobile home, mobile accessory structure, or an automobile trailer or recreational vehicle.

Maintenance and Repair Services. Establishments that provide home appliance and/or electronic or office equipment repair and maintenance, or building maintenance services. Does not include maintenance and repair of vehicles (see "Vehicle Repair and Service").

Massage Establishment. An establishment where massage services are provided. Massages are defined as the application of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client, which shall include but not be limited to services referred to as Reiki, applied oils, body sponge, reflexology, bodywork, and acupressure.

Medical Clinic. A facility that offers non-emergency medical care services on an out-patient basis.

Medical Use. Any use involving the care of persons' general health by licensed practitioners. Includes hospitals, urgent care clinics, out-patient facilities, doctor and dental offices, chiropractic and podiatric facilities, and similar practices of the medical arts and directly related laboratory services.

Ministerial. A government decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the action, including the issuance of a permit.

Mixed Use Development (Mixed Use Project). An approach to land use development that involves integrating two or more different but highly compatible types of uses on the same property as part of a unified development. Generally, Mixed Use Development consists of commercial and residential uses integrated either vertically in the same structure or group of structures, or horizontally on the same development site where parking, open spaces, and other development features are shared. However, light industrial and commercial development may also be considered as Mixed Use. In a Mixed Use Development, both uses are considered primary uses of the land.

Mobile Housing Unit (Mobile Home). A transportable structure that is built on a permanent chassis and designed to function as a dwelling when connected to the required utilities, including plumbing, heating, air conditioning, and electrical systems (pursuant California Health and Safety Code Sections 18007 and 18008) and placed on a pad intended for such housing unit. This definition does not include a trailer or recreational vehicle.

Mobile Home Park. A type of residential development, established either as a legal subdivision of land with individual mobile home pads and common areas or as a development where pads are leased or rented, for the purpose of accommodating mobile home units on individual pads as part of a coordinated development. A mobile home park may include common areas and facilities for the use of all park residents.

Moderate-income Households. Households whose gross income does not exceed the percentage of the median income for Los Angeles County, as published annually by the California Housing and Community Development Department and as set forth in Section 50093 of the California Health and Safety Code.

Modular Home. See "Manufactured Housing Unit."

Motel. A lodging establishment typically featuring a series of rooms whose entrances are immediately adjacent to a parking lot.

Motor Home. See "Recreational Vehicle."

Multi-family Dwelling. See "Dwelling, Multi-family."

Museum. See "Cultural Institution."

SECTION 3.**SECTION 19.160.170 AMENDED**

Section 19.160.170 to Chapter 19.160 "Definitions," to Article 9 "Definitions," to Title 19 "Planning and Zoning," of the Duarte Municipal Code is is amended as follows (deletion shown as ~~strike-out~~ and addition as underline):

19.160.170 - "P" definitions.

Parking, Joint Use. The use of a single parking facility by several related uses occupying the same or adjacent parcels. For example, the use of a single parking facility by tenants of a shopping center.

Parking, Shared. The use of a single parking facility by two distinctly different uses with distinctly different hours of operation such that the shared use of the facility can be accomplished without limiting the ability of one use to occupy the facility to the detriment of the other. For example, distinctly different uses could be a place of religious assembly which generally has weekend parking demands and an office development, which typically uses the parking facility during the week.

Parking Space. An unobstructed space or area other than a street or alley that is permanently reserved, maintained, and accessible for the parking of one motor vehicle.

- *Garage Parking Space.* A parking space provided within an enclosed structure, with a closing and locking door, whose primary use is the storage of vehicles.
- *Off-Street Parking Space.* A permanent parking space for a vehicle which is designed to City standards and not located on a dedicated street right-of-way.
- *On-Street Parking Space.* A parking space for a vehicle which is designed to City standards and located on a dedicated street right-of-way.

Parking Structure. A structure that is designed specifically for automobile parking and where there are a number of floors or levels on which automobiles park.

Parks and Recreation Facilities. Public parks, play lots, playgrounds, and athletic fields for non-commercial neighborhood or community use, including sports courts. May include passive outdoor recreation areas that also may be located in conservation areas and/or qualify as "open space." Does not include the same facilities that are privately owned or commercial facilities ("Commercial Recreation and Entertainment").

Parkway. That portion of the public right-of-way between the curb and sidewalk or, where no sidewalk is provided, between the curb and adjacent private property line. A parkway generally includes landscape improvements.

Patio. A paved unenclosed outdoor area that is used for lounging, dining, etc.

Patio Cover. A solid or open roof structure and covering a patio, platform, or deck area, and that is either detached from or attached to another structure.

Pawn Shop. A commercial establishment that sells secondhand personal property and in which the operator provides loans secured by such personal property.

Permeable Surfaces. A surface where the surfacing material itself is impermeable to the inflow of rainwater, but the surface has inlets or holes through it which water enters the soil or construction below.

Personal Services Business. Any business or enterprise that provides individual care to persons involving their personal health, fitness, grooming, or appearance.

- *Personal Services, General.* Establishments that provide recurrently needed services of a personal nature. Examples of these uses include:
 - acupuncture and acupressure
 - barber and beauty shops (without massage services)
 - clothing rental shops
 - day spas
 - dry cleaning pick up stores with limited on-site cleaning equipment
 - laundromats (self service laundries)
 - locksmiths
 - ~~massage establishments with licensed massage technicians~~
 - nail salon
 - shoe repair shops
 - tailors and seamstresses
- *Personal Services, Restricted.* Personal services with characteristics that have the potential to adversely impact surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include:
 - checking cashing
 - fortune-telling and psychic services
 - game arcades

- internet cafes
- massage establishments, in compliance with Chapters 5.56 and 19.60.112 of the Duarte Municipal Code
- palm and card readers
- pawn shops
- tanning salons
- tattoo and body piercing services

Personal Storage (Mini-Storage or Self-Storage, Indoor Only). A structure containing separate storage space that is designed to be leased or rented individually. Indoor storage shall mean that access to all storage spaces shall be from common interior corridors, and the facility has only shared loading areas. This use does not include outdoor storage of any kind. Further, such storage does not involve any manufacturing, retail or wholesale selling, office or business services, or human habitation in any storage space or anywhere on site.

Pharmacy. A place where prescription drugs are dispensed.

Places of Religious Assembly. Any facility specifically designed and used to accommodate the gathering of persons for the purposes of fellowship, worship, or similar conduct of religious practices and activities. This definition includes functionally related internal facilities (i.e., kitchens, multi-purpose rooms, storage, etc.) and residences for clergy. Associated uses (i.e., day care centers, full-time or part-time schools, or emergency housing) may be allowed but required separate discretionary approvals pursuant to the requirements of this Development Code.

Planned Development. An area of land, controlled by a landowner, to be developed as a unified project and single entity for a group of townhouse dwellings and/or detached dwelling units, the plan for which may not correspond in lot size, bulk or type of dwelling, density, lot coverage, setback or required open space to the regulations in this Development Code.

Planning Commission or Commission. The Planning Commission of the City of Duarte.

Plant Nursery. A place where plants are propagated and grown to usable size. They include retail nurseries which sell to the general public, wholesale nurseries which sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries which supply the needs of institutions or private estates.

Pool House. A detached structure used as bathhouse. Structure shall not be used for sleeping purposes.

Porte-Cochere. An accessory structure open on three sides and attached to the side or front of a building through which cars pass and is established for the convenient loading and unloading of

passengers from an automobile. A porte-cochere is not a carport or garage nor may it be used to satisfy off-street parking requirements.

Postal Services. Establishments that provide commercial retail postal services directly to the customer, including letter and parcel mailing, post office box rental, and related services.

Primary Use. See "Use."

Printing and Duplicating Services. An establishment providing printing, blueprinting, photocopying, engraving, binding, or related services.

Public Assembly, Place of. See "Assembly/Meeting Facilities, Public or Private."

Public Facility. A site or structure owned and operated by the City of Duarte, or other public agencies, for the purpose of providing one or more services to residents of the City, and/or to support other City functions.

SECTION 4. CEQA DETERMINATION.

In adopting this Ordinance, the City Council finds and determines, based on all of the information in the record and on the basis of its independent judgment, that this Ordinance is exempt from the California Environmental Quality Act pursuant to the following exemptions, and each of them independently: Title 14 California Code of Regulations Section 15061(b)(3), in that it can be seen with certainty that the adoption of this Ordinance proposes no activity that may have a significant effect on the environment, and pursuant to Title 14 California Code of Regulations Section 15301, in that this Ordinance involves no expansion of use of existing facilities.

SECTION 5. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 6. POSTING OF ORDINANCE.

The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days following its second reading.

PASSED, APPROVED, AND ADOPTED after second reading at a regular meeting of the City Council of the City of Duarte this ____ day of _____, 2015.

Mayor Tzeitel Paras-Caracci

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. ____ was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the ____ day of _____, 2015, by the following Roll Call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA AMENDING IN ITS ENTIRETY CHAPTER 5.56, "MASSAGE ESTABLISHMENTS," OF TITLE 5, "BUSINESS LICENSES AND REGULATIONS," OF THE DUARTE MUNICIPAL CODE TO REVISE CERTAIN REGULATIONS APPLICABLE TO THE OPERATION OF MASSAGE ESTABLISHMENTS (MCA 14-06)

**THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ORDAINS AS
FOLLOWS:**

SECTION 1. CHAPTER 5.56 AMENDED

Chapter 5.56, "Massage Establishments," of Title 5, "Business Licenses and Regulations," of the Duarte Municipal Code is amended in its entirety to read as follows:

5.56.010 - Purpose and intent.

The intent and purpose of this chapter is to comply with the provisions found in California Business and Professions Code section 4600 et seq. relating to the regulation of massage or massage services, which shall include but not be limited to services referred to as Reiki, applied oils, body sponge, reflexology, bodywork-, and acupressure (collectively "Massage"), and to allow legitimate massage uses while restricting business fronts for illicit sexual activity and/or human trafficking. Any terms used in this chapter that are not defined in this chapter shall have the same meaning as that defined by California Business and Professions Code section 4600 et seq. Nothing in this chapter shall serve to limit the city's authority under California Business and Professions Code section 4600 et seq.

5.56.020 - License required.

- (a) It shall be unlawful and a violation of this code for any individual person, association, partnership, corporation, or other entity to engage or permit to engage in, conduct, or carry on, ~~in or upon any premises within the city the business of massage in exchange for compensation without being currently certified as a massage practitioner or massage therapist~~ by the operation of a Massage establishment unless: (1) all persons providing Massages at the establishment are certified massage practitioners and/or certified Massage therapists pursuant to the California Massage Therapy ~~Organization~~ Council's certification procedures in accordance with California Business and Professions Code section 4600 et seq.; and (2) the Massage establishment operator has obtained a business license and a conditional use permit from the city as well any other permits, licenses and other approvals required by law. Procedures for obtaining a business license are set forth in chapter 5.04 of this code and section 5.56.040 of this chapter.
- (b) All persons administering Massages in the city for compensation must be a certified Massage practitioner and/or a certified Massage therapist holding a valid certification from the Massage Therapy Council. No person may administer massage within the city without first providing, to the Director of Administrative Services, a copy of his or her massage certificate and a list of the names and addresses of all Massage establishments at

which he or she will provide Massage for compensation. Any change in the locations at which a person will provide Massage for compensation shall be reported to the city within five (5) business days of the change.

- (c) This section applies to all independent contractors, sole proprietors, and owners of a Massage business. Accordingly, pursuant to Government Code section 51034(c)(8), any Massage business owner, including a sole proprietor or independent contractor who is California Massage Therapy Council certified, must obtain a business license and any other entitlement required by this Code to carry on the business of Massage therapy.

~~5.56.030 – Business license required; inspection of premises; notification to city.~~

~~(a) Any person, association, partnership, corporation, or other entity engaged in the businesses of massage described in Section 5.56.010 of this chapter shall apply for and secure a city business license under Chapter 5.04 prior to commencing any operation in the city.~~

5.56.040 – Massage Establishment business license required; inspection of premises; notification to city.

- (a) In addition to the information required to be provided under chapter 5.04 of this Code, a person applying for a business license for a Massage establishment as described in sections 5.56.020 of this chapter shall provide the following information:
- (1) The prior business and permit history of the applicant, including but not limited to whether the applicant has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of such a permit or license; whether the permit or license was revoked or suspended; and whether a vocational or professional license or permit was issued, revoked, or suspended, and the reason for any revocation or suspension.
 - (2) A description of the proposed Massage establishment, including the type of treatments to be administered;
 - (3) Authorization for the city, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application.
 - (4) A complete current list of the names and residence addresses of all proposed Massage technicians, aides, trainees and other employees who are or will be employed in the Massage establishment, if known, together with the State-issued Massage Technician's License for each proposed Massage technician. If not known at the time of submission of the application, the applicant shall provide the required information no later than five (5) business days prior to opening for business.
 - (5) For each person that the Massage establishment does or will employ, retain or permit to perform Massage for compensation: a copy of that person's legal form of identification with photograph, a copy of that person's current certificate issued

by the Massage Therapy Council, and a copy of that person's identification card issued by the Massage Therapy Council.

- (6) The name and residence addresses of the proposed operator(s) and manager(s) who will be principally in charge of the operation of the Massage establishment.
 - (7) The name and mailing address of the Landlord and the fee owner of the property at which the Massage establishment will be conducted.
 - (8) Evidence satisfactory to the Director of Administrative Services demonstrating that the proposed Massage establishment is authorized under city zoning to conduct Massage activities at the proposed Massage establishment site.
 - (9) A scaled floor plan of the Massage establishment, including, at minimum measurements and purposes labeled of all rooms and spaces within the building.
- (b) As a condition of issuance of a business license, the city shall have the right to inspect the premises to confirm compliance with this chapter and applicable state law.
 - (c) Except as otherwise specifically provided in this subdivision, once a business license is issued to a Massage establishment, the applicant shall submit to the city any change to any of the information required above within five (5) business days of discovering that change. Such changes include, but are not limited to, changes in the types of services to be provided, changes in the persons employed or retained by the Massage establishment to perform Massage for compensation and changes to the floor plan or physical arrangement of space within the Massage establishment.
 - (d) ~~(e)~~ The owner or operator of a ~~massage~~ Massage establishment-, including independent contractors and sole providers, shall notify the city in writing of any intention to rename, change management, or convey the business to another person or entity at least ~~fifteen~~ five (5) business days prior to such renaming, change of management, or conveyance of the business.

5.56.040 5.56.060 - Display of permit and certifications.

- (a) Each person employed or retained ~~by a massage~~, including independent contractors, by a Massage establishment to perform ~~massage~~ Massage services in or on the premises ~~or through an outcall massage service~~ shall display ~~on~~ keep in his or her person possession a copy of a valid certification identification card issued to that employee by the California Massage Therapy Council and a legal form of identification with photograph. ~~It should be the obligation of the massage business or establishment to display a copy of each such permit or certification in an open and conspicuous place visible from the entrance and/or reception and waiting area of the massage establishment and business. A passport size photograph of the employee shall be affixed to each permit, certification, or identification card on display pursuant to this section. The home address of any employee need not be displayed.~~
- (b) The Massage business or establishment must also display a copy of each such certificate for every certified Massage therapist and certified Massage practitioner employed by the Massage establishment, as an employee, independent contractor or otherwise, in an open

and conspicuous place visible from the entrance and/or reception and waiting area of the massage establishment and business. A passport-size photograph of the employee shall be affixed to each permit, certification, or identification card on display pursuant to this section. The home address of any employee need not be displayed.

5.56.070 – Massage School Prohibited

No Massage establishment shall operate as a school of Massage or use, or permit use of, any portion of its facilities as a school of Massage.

~~5.56.050~~ 5.56.080 - Attire and physical hygiene requirements.

The following attire and physical hygiene requirements shall be applicable to all ~~massage~~ Massage businesses and establishments and to all ~~persons performing massage services in~~ owners, operators, managers, employees, and independent contractors of such Massage establishments located within the city.

- (a) All persons shall wear clean and sanitary outer garments ~~at all times~~ when present on the premises of the Massage establishment. ~~All outer garments shall be of a fully opaque, nontransparent material and provide complete covering from at least the mid thigh to two inches below the collarbone. The midriff shall not be exposed.~~
- (b) All outer garments shall comply with the standards set forth in Business and Professions Code section 4609, and, accordingly shall be of a fully opaque, nontransparent material, and shall not expose any genitals, pubic areas, buttocks or breasts.
- (c) All persons shall thoroughly wash their hands with soap and water or any equally affective cleansing agent immediately before providing any Massage service to a patron. No Massage services shall be provided upon a surface of the skin or scalp of a patron where such skin is inflamed, broken (e.g., abraded, cut) or where a skin infection or eruption is present.
- (d) No person afflicted with an infection or parasitic infestation capable of being transmitted to a patron shall knowingly provide Massage services to a patron, or remain on the premises of a Massage business or establishment while so infected or infested. Infections or parasitic infestations capable of being transmitted to a patron include, but are not limited to:
 - (1) Cold, influenza or other respiratory illness accompanied by a fever, until twenty four hours after resolution of the fever;
 - (2) Streptococcal pharyngitis ("strep throat"), until twenty-four hours after treatment has been initiated and twenty-four hours after resolution of fever, whichever is the later;
 - (3) Purulent conjunctivitis ("pink eye"), until examined by a physician and approved for return to work;
 - (4) Pertussis ("whooping cough"), until five days of antibiotic therapy has been completed;

- (5) Varicella ("chicken pox"), until the sixth day after onset of rash or sooner if all lesions have dried and crusted;
- (6) Mumps, until nine days after onset of parotid gland swelling;
- (7) Tuberculosis, until a physician or local health department authority states that the person is noninfectious;
- (8) Impetigo (bacterial skin infection), until twenty-four hours after treatment has begun and twenty-four hours after resolution of the infection, whichever is later;
- (9) Pediculosis (head lice), until the morning after first treatment; and
- (10) Scabies ("crabs"), until after treatment has been completed.

Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this paragraph (c).

5.56.100 - Reception area separate from customer waiting area; screening of openings.

To ensure that the view of the interior of the premises is obscured, any building openings, entries, windows, and the like found in Massage businesses and establishments shall be located, covered, or screened in such a manner as to prevent a view into the interior from outside the building with the exception of the reception, front desk, and/or customer waiting area which shall be visible from the exterior through the front door and/or store-front window. To ensure that the view of each of the Massage rooms of the premises is partially obscured, all interior openings, entries, windows, doorways, and the like into Massage rooms found in Massage businesses and establishments shall use obscured glass doors without use of any type of additional covering, such that use of a Massage room may be visually confirmed, but the identity of the room occupants is protected.

5.56.110 - Construction.

The following construction standards are adopted to ensure the personal health and safety of patrons and employees by imposing reasonable hygiene requirements:

- (a) Construction of rooms used for toilets, tubs, steam baths, and showers at all Massage businesses and establishments shall be made waterproof with approved waterproofed material and shall be installed in accordance with all applicable state and local laws and regulations. Plumbing fixtures shall be in accordance with all applicable state and local laws and regulations.
- (b) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the city.
- (c) Floors of wet and dry heat rooms shall be adequately pitched to one or more drains properly connected to the sewer. However, dry heat rooms with wooden floors need not be provided with pitched floors and drains.
- (d) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

5.56.100 - Unlocked exterior doors.

~~To protect the personal health and safety and security of patrons and employees, all exterior doors of a massage business and establishment shall remain unlocked during business hours.~~

5.56.110 - Locked interior doors prohibited.

~~To protect the personal safety and security of patrons and employees, it shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage business and establishment which is fitted with a door capable of being locked.~~

5.56.120 - Minimum number of employees and unlocked exterior and interior doors

- (a) All Massage businesses and/or establishments shall utilize a minimum of two (2) employees during all business hours.
- (b) All exterior doors of a Massage business and/or establishment shall remain unlocked during business hours.
- (c) It shall be unlawful for any Massage service to be carried on within any cubicle, room, booth, or any area within a Massage business and establishment which is fitted with a door capable of being locked.
- (d) Toilets and cubicles used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to such purpose on the exterior door or curtain of the cubicle, room or booth.
- (e) Nothing contained in this section shall be construed to eliminate other requirements of statute, ordinance, or this code concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments, or by the city to assure compliance with the provisions of this chapter and applicable fire, health, and safety requirements.

5.56.130 - Video security

- (a) The reception or front desk area, all hallways, and every entry and exit of every Massage business and/or establishment shall utilize a video security system that provides surveillance of such areas during all business hours. All video footage shall be retained in a digital format for a minimum of 30 calendar days. The Massage business establishment owner, operator, manager, and/or employee shall make the recorded surveillance immediately available for inspection upon reasonable demand of the City Manager, City Manager's designee, city law enforcement or any city code compliance officer. The owner of the Massage business establishment shall submit to the Director of Public Safety a Supplemental Security Plan, before the issuance of a city business license, prepared to the Director's satisfaction outlining implementation of the following measures, which shall be monitored by the Public Safety Department. Upon plan approval by the Director of Public Safety, the plan components shall be installed and made operational prior to the Massage establishment commencing operation. At a minimum, the security plan shall provide the following:

- (1) A Closed Circuit Television (CCTV) System capable of viewing and recording events inside and outside the premises. The quantity, type, and location of cameras shall be subject to Public Safety Director approval.
- (2) Details on the location of the CCTV system recorder and storage of recorded content. The recorder shall be locked in a cabinet within an office; access to the cabinet shall be available to employees on duty at all times.
- (3) Details on clearly distinguishable height markers on the interior side of the doorjamb, or on the interior edge of a pair of doors, for all doors used by the public to access the establishment. Horizontal marks, one-inch wide by three inches long, in different colors, and in a contrasting color to the background, shall be placed every six inches beginning at 5' and ending at 6'6".

5.56.150 - Cleanliness.

- (a) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of Massage shall be provided.
- (b) Hot and cold running water shall be provided at all times.
- (c) A washer and dryer, for thoroughly cleaning soiled linens, shall be located within the interior of the massage establishment.
- (d) Separate closed cabinets shall be provided for the storage of clean and soiled linen, and shall be plainly marked: "Clean Linen" and "Soiled Linen."

5.56.160 - Separate rooms and group massage.

Massage services for one gender must be provided in a room separate from members of the opposite gender. Establishments that provide massage services to a group of two or more persons (e.g. group massage), may only do so for members of the same gender in a room separate from members of the opposite gender. Group massage may be provided to members of the opposite gender in a separate single room, only if such persons are related by blood, marriage, registered domestic partnership, or adoption.

5.56.170 - Genders served. Lockers, dressing, and toilet facilities.

Massage services shall be offered to members of both genders. Adequate dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one separate locker for each patron served at any given time shall be provided, which locker shall be capable of being locked. Separate dressing and separate toilet facilities shall be provided for both male and female patrons.

5.56.180 - Washbasins.

A minimum of one separate washbasin shall be provided in each Massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of Massage services. In addition, there shall be provided at each washbasin, sanitary towels placed in permanently installed dispensers.

5.56.190 - Services to minors.

To ensure safety and security, minors are not permitted to enter the premises of a Massage business or establishment without being accompanied at all times by a parent or legal guardian and the building entrance to any Massage business and establishment shall be clearly and legibly posted by a notice indicating that minors are precluded from entering the premises unless accompanied by a parent or legal guardian at all times. As used herein, the term "minor" means an individual under the age of eighteen years.

5.56.200 - Harmful displays.

To protect minors from viewing displays of harmful materials, no display or exhibit which emphasize or direct the viewer's attention to the subject's genitals or which depict or describe sexual activities or specified anatomical areas, shall be placed in, on, or at a Massage business and establishment in such a manner as to be visible from the exterior of the premises.

5.56.210 - Permitted hours.

To ensure the personal safety and security of patrons and employees and limit negative secondary impacts to surrounding uses, Massage businesses and establishments shall only operate between the hours of 8:00 a.m. and 8:00 p.m.

5.56.220 - List of services display.

All Massage businesses and establishments shall post a list of services available, described in English, and at the option of the Massage business and establishment one or more other language, and the cost of such services in a conspicuous place on the premises. No service shall be included on the list unless it is a service that falls within the professionally recognized scope of practice of a certified Massage therapist or certified Massage practitioner. No owner, manager or operator of a Massage establishment shall allow, and no person shall perform or offer to perform, any service other than those posted pursuant to this paragraph.

5.56.230 – Records of Services Rendered.

To ensure the personal safety and security of patrons and employees and to aid law enforcement officials in their investigation of illegal activities, all Massage businesses and establishments and independent Massage therapists and Massage practitioners shall maintain a record which includes, at minimum, the date and time of each service, the full name and complete address of the patron (which information shall be verified through the presentation of a proper form of legal identification), the full name of any certified Massage practitioner or certified Massage therapist who administered any portion of such service, and the type of Massage given. Such records shall be retained for a minimum of two (2) years from the date of service, and shall be made available, upon request, for inspection by the City Manager or City Manager's designee, city law enforcement or any city code compliance officer. The information contained in such records shall be confidential unless otherwise required under applicable law.

5.56.240 – Records of Employees and Independent Contractors

The operator and/or manager of a Massage establishment shall maintain on the premises a register of all Massage therapists and Massage practitioners, including employees and independent contractors, providing Massage services at said establishment. Information concerning an employee or independent contract shall be maintained for a minimum of two years after the person ceases to work for the establishment. The operator and/or manager shall make the register immediately available for inspection upon reasonable demand of the City Manager,

City Manager's designee, city law enforcement or any city code compliance officer. The register shall include, but not be limited to, the following information:

- (a) The name, nicknames and/or aliases used by an employee.
- (b) The employee's home address and relevant phone numbers (including but not limited to home, cellular and pager numbers.)
- (c) The employee's age, date of birth, gender, height, weight, color of hair and eyes.
- (d) The employee's Social Security number.
- (e) The date of employment and termination, if any.
- (f) The duties of each employee.
- (g) A legal form of identification with photograph

5.56.250 – Advertisement

No Massage establishment owner, operator, manager, employee or independent contractor shall place, publish or distribute, or cause or allow to be placed, published or distributed, any advertising matter that would reasonably suggest to prospective patrons that any service is available unless such service is listed on the Massage establishment's list of available services required under section 5.56.220, above.

5.56.255 - Prohibited procedures and equipment.

No invasive procedures shall be performed on any patron. Invasive procedures include, but are not limited to:

- (a) Application of electricity which contracts the muscle;
- (b) Application of topical lotions, creams, or other substances which affect living tissue, such as chemical peel preparations or bleaches;
- (c) Penetration of the skin by metal needles;
- (d) Abrasion of the skin below the non-living, epidermal layers;
- (e) Removal of skin by means of any razor-edged instrument or other device or tool; and
- (f) Any needle-like instrument which is used for the purpose of extracting skin blemishes and other similar procedures.
- (g) Any table shower massage, Vichy massage or other procedure that involves a table or other flat surface that is intended for patrons to lay on while receiving bathing and/or massage services (in any location, including, without limitation, a shower or lavatory).
- (h) Any table shower device, or other device that is intended for patrons to lay on while receiving bathing and/or massage services (in any location, including, without limitation, a shower or lavatory).

5.56.260 - Restrictions on garments provided.

All bathrobes, bathing suits and/or other garments that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be laundered after each use.

5.56.270 - Restrictions on grooming and hygiene products provided.

All combs, brushes, and or other personal items of grooming or hygiene that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be fully disinfected after each use.

5.56.280 - Required footwear while showering.

No patrons shall be allowed to use any shower facilities of the business or establishment unless such patrons are wearing slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one patron, or shall be fully disinfected after each use.

5.56.290 - Prohibited conduct.

To protect the personal health and safety of patrons and employees, the following conduct is prohibited from taking place within a Massage establishment:

- (a) No person present at a Massage establishment may expose or touch an anatomical area, whether his or her own, or those of another person.
- (b) A Massage of the genitals or anal region of a patron, or any other person located within the Massage establishment, as provided in Business and Professions Code section 4609(a)(1)(E).
- (c) No Massage services shall be rendered to a patron, unless the patron's genitals are fully covered. In the case of a female patron, the patron's breasts must also be covered to the point immediately above the top of the areola. In addition, no patron's genitals or breasts of a any female patron shall intentionally be touched while the patron is on the premises of the Massage establishment.
- (d) It is unlawful for any massage establishment to allow any of its employees, independent contractors, patrons, or any other person present where Massage services are being offered or performed, to engage in any sexual activity.
- (e) It is unlawful for any person owning, operating or managing a Massage businesses and establishment knowingly to cause, allow or permit in or about such Massage businesses and establishment any agent, employee or any other person under his control or supervision to perform such acts prohibited in this section.
- (f) For purposes of this section, the phrase "anatomical area" means human genitals, anus, or a female breast below a point immediately above the top of the areola.
- (g) For purpose of this section, the phrase "sexual activity" means any of the following: (a) the fondling or other touching of human genitals, anus, or female breasts; (b) sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, masturbation, or sodomy; or (c) excretory functions as part of or in connection with the fondling or other touching of human genitals, pubic region, buttocks, anus, or female breasts, sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.

This section does not prohibit any certified massage practitioner or certified massage therapist from performing:

- (h) A Massage of the gluteal muscles for compensation.
- (i) A massage of female breasts with (1) the written consent of the person receiving the Massage and (2) a referral from a licenses California health care provider pursuant to Business and Professions Code section 4609(a)(1)(F).
- (j) Specific techniques recognized by the California Massage Therapy Council as legitimate.

5.56.300 – Alcohol, prophylactic devices and non-prescription drugs prohibited.

No alcoholic beverage or drug, other than a prescription medication in the possession of the person for whom the prescription was written, and no condoms or other prophylactic devices, shall be stored or allowed on a Massage establishment's premises. Service of alcoholic beverages shall not be permitted.

5.56.310 - Minors—Employment or services prohibited.

No holder of a Massage businesses and establishment license shall employ any person under eighteen years of age.

5.56.320 - Violations a public nuisance, penalties and nuisance abatement; license revocation for repeated violations; notifications to Landlord

- (a) Any Massage establishment operated, conducted, or maintained contrary to the provisions of this or related chapters shall be, and the same is hereby declared to be unlawful and a public nuisance, and the City Manager or City Manager's designee, City Attorney or City Prosecutor may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, against the Massage establishment owner and/or its agents and/or employees, and/or the landlord and/or fee owner of the property on which the Massage establishment is operated, for the abatement, removal and enjoinder thereof, in the manner provided by law. Such remedies shall be in addition to any other penalties or remedies available to the city under this code, or under state law.
- (b) In addition to any other penalty authorized by law or this code, the penalty for violating any of the terms, conditions, or requirements of this chapter shall be as follows:
 - (1) First Violation. When a person or business is found to violate any provision of this chapter, that person or business shall be issued a formal, written warning from a city code enforcement officer to cease the prohibited activity.
 - (2) Second Violation. When a person or business is found to violate any provision of this chapter after being issued a formal, written warning within the prior twelve (12) month period for a previous violation, that person or relevant agent for the business shall be given a second written notice of violation advising that any further violations will result in the revocation of the business license for such establishment, and a prohibition on a re-application for a business license for a period of one (1) year from the subsequent violation.
 - (3) Third Violation. When a person or business is found to violate any provision of this chapter for a third time within a twelve (12) month period following receipt

of a second violation, that person or business shall be given written notice by the Code Enforcement Officer that its business license for the premises in question is immediately and summarily revoked, and that continued operation of the business in question thereafter shall be deemed an additional violation of the city's Municipal Code. A copy of such notice shall be posted at a prominent location upon the property in question. An action to revoke a business license under this section may be appealed within ten (10) days of the date of the written notice of the summary revocation, pursuant to the procedure set forth in section 5.04.260 of this Code. Notwithstanding any provision of the Municipal Code to the contrary, and because the City Council has declared that a business operating in violation of this chapter poses an immediate threat to public health, safety and welfare, the filing of an appeal in connection with the immediate, summary revocation of a business license under this chapter shall not stay the effectiveness of the revocation during the pendency of an appeal. Upon revocation of a business license pursuant to this section, (1) the applicant and any affiliate thereof shall be prohibited from re-occupancy of a Massage Establishment during the twelve (12) month period following the revocation., and (2) all persons shall be prohibited from applying for a business license to operate a Massage Establishment at the subject location during the twelve (12) month period following the revocation.

- (c) The Landlord and the fee owner of the property at which the Massage establishment is conducted, as identified in the business license application, shall be notified of each citation, violation, conviction, and/or business license revocation action taken pursuant to this chapter.

5.26.330 – Management; liability of management.

One or more managers shall be designated to act as the person(s) in charge of managing day-to-day operations of the Massage establishment, including receiving all complaints. The names of such managers must be provided to the city. At least one manager shall be on premises of the massage establishment at all times during all business hours of operation. In addition to the holder of the Massage facility's business license, on-site managers shall be responsible for all violations taking place on the massage establishment premises during their respective shifts.

5.56.340 - Exemptions from chapter.

This chapter shall not apply to:

- (a) Persons holding a valid certificate to practice the healing arts under the laws of the State of California and their employees, including, but not limited to, holders of medical degrees such as physicians, surgeons, chiropractors, osteopaths, naturopaths, podiatrists, acupuncturists, physical therapists, registered nurses, and licensed vocational nurses;
- (b) State-licensed hospitals, nursing homes, sanitariums, physiotherapy establishments, or other state-licensed physical or mental health facilities and their employees;
- (c) Barbers and cosmetologists who are licensed under the laws of the State of California while providing massage services within the scope of their licenses, provided that such massage services are limited solely to the neck, face, scalp, feet and lower limbs up to the knees, and hands and arms, of their patrons;

- (d) Persons who provide Massage services to amateur, semi-professional or professional athletes or athletic teams, facilities or events, so long as such persons do not practice Massage services as their primary occupation within city limits;

5.56.350 – Compliance with applicable laws.

Massage establishments shall be operated in compliance with all applicable laws and regulations, including without limitation, the California Massage Therapy Act (Business and Professions Code section 4600 et seq.).

5.56.360 – Pre-Existing Massage Establishments.

- (a) Except as set forth in subsection 5.56.360(b), all requirements of this chapter shall be applicable effective within the timeframes described below.
- (1) The city shall notify both the tenants and the property owners of all Massage Establishments that were legally operating with the city prior to May 1, 2015 of (1) the city's then-current Massage Establishment regulations, (2) an opportunity to meet and confer with city staff concerning the then-current Massage Establishment regulations, and (3) a list of materials that must be submitted to the city under this chapter.
- (2) All existing Massage Establishments shall, within sixty (60) days after receiving the notifications required in subsection 5.56.360(a)(1), provide to the city any and all documentation required by this chapter, and shall authorize an inspection of the Massage Establishment by city staff. Following receipt of the documentation and completion of the inspection, city staff shall notify the tenants and the property owners of the Massage Establishment of all required corrections or changes as necessary to achieve compliance with this chapter.
- (3) All existing Massage Establishments shall, within sixty (60) days after receiving the notifications required in subsection 5.56.360(a)(2), make any necessary changes to the physical structure or operations of said Massage Establishment as necessary to be in compliance with this chapter (except to the extent required compliance is deferred pursuant to section 5.56.360(b)).
- (b) Notwithstanding subsection 5.56.360(a), all Massage Establishments that were legally operating in the city prior to May 1, 2015 and determined by the Director of Community Development to be out of compliance with the requirements of sections 5.56.100, 5.56.130, 5.56.150(c) and/or 5.56.170 of this chapter, shall achieve full compliance with such sections on or prior to July 1, 2018.

SECTION 2. CEQA DETERMINATION.

In adopting this Ordinance, the City Council finds and determines, based on all of the information in the record and on the basis of its independent judgment, that this Ordinance is exempt from the California Environmental Quality Act pursuant to the following exemptions, and each of them independently: Title 14 California Code of Regulations Section 15061(b)(3), in that it can be seen with certainty that the adoption of this Ordinance proposes no activity that

may have a significant effect on the environment, and pursuant to Title 14 California Code of Regulations Section 15301, in that this Ordinance involves no expansion of use of existing facilities.

SECTION 3. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 4. POSTING OF ORDINANCE.

The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days following its second reading.

PASSED, APPROVED, AND ADOPTED after second reading at a regular meeting of the City Council of the City of Duarte this ____ day of _____, 2015.

MAYOR TZEITEL PARAS-CARACCI

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

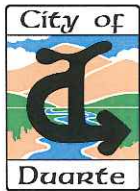
I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. ____ was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the ____ day of _____, 2015, by the following Roll Call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

City Clerk Marla Akana
City of Duarte, California



MEMORANDUM

Date: March 16, 2015

To: Chairperson and Planning Commissioners

From: Jason Golding, Senior Planner

Subject: **Municipal Code Amendment (MCA) 14-05**; City Council request for additional analysis of square footage requirement, as outlined in proposed Ordinance 15-O-02, Chapter 19.60.112.C.1

At the February 24, 2015 meeting, the City Council introduced Ordinance 15-O-02 (MCA 14-05); a code amendment to: (1) add Duarte Development Code sections 19.60.112, to provide locational and development standards for massage establishments; and (2) modify certain definitions appearing in Duarte Development Code Chapter 19.160 to more clearly address the City's regulations of massage establishments. The Council discussed proposed subsection 19.60.112.C.1, which required a minimum 2,000 square foot (s.f.) gross owned or leased floor area for new massage establishments. During deliberation, several different ideas were considered, including maintaining the 2,000 s.f. minimum, reducing the floor area requirement, or completely eliminating any minimum massage establishment size. Public testimony was taken from one person who currently operates a 1,200 s.f. wellness center that they plan on converting to a massage business after consideration of the ordinances; they expressed their concern over the minimum lease area requirement. The Council did not introduce the Ordinance and instead referred the issue of minimum massage establishment floor area back to the Planning Commission for further consideration.

As previously discussed in the Staff Report, one significant component of the Development Code amendment was the establishment of a minimum floor area requirement for new massage businesses. Code Enforcement and Planning Division experience show that most interested massage businesses are looking for smaller spaces in older, less maintained and smaller centers. A brief survey was conducted for the five existing massage establishments in the City.

TABLE 1				
	Address	Business Name	Appx. Floor Area (s.f.)	Appx. Receptionist Area (s.f.)
1.	1163 Huntington Dr.	East Meets West Spa	1,125	230
2.	1740 Huntington Dr., #310	Rainbow Spa	1,200	200
3.	1802 Huntington Dr, #D	Foot & Body Spa	840	200
4.	2138 Huntington Dr.	Lucky Star Massage	1,500	305
5.	2163 Huntington Dr.	Duarte Foot & Body Massage	1,325	190

All of the City's existing massage establishments have had enforcement issues. Table 2 provides information from the Public Safety Department on past enforcement actions related to

the five current massage businesses within the community. Addresses have been removed and the locations changed from Table 1 for the purposes of this staff report.

TABLE 2	
Location	Violations (number of violations)
1.	Alterations to floor plan/layout (2); building permits required (2); recordkeeping (2)
2.	Displaying technician licensing/permits (3); massage technician license required (2); cleanliness (3); building permits required (2); alterations to floor plan/layout; recordkeeping (3); separate rooms
3.	Bathing and dressing room requirements (2); building permits required; screening of openings; recordkeeping (2); reception area
4.	Unlocked doors; displaying technician licensing/permits; cleanliness; building permits required; recordkeeping (2); prostitution - arrest made, case withdrawn
5.	Displaying technician licensing/permits (4); building permits required (4); alterations to floor plan/layout (4); recordkeeping (4); restrictions on garments provided - not being washed; prohibited procedures - abrasive procedures; required footwear for showering

Research of other cities with national massage businesses, such as chains like Massage Envy and Massage Green, indicate that their lease spaces are typically no less than 2,000 s.f., with most between 2,200 and 2,800 s.f.. These establishments usually occupy space in well-maintained shopping centers where they can compliment other services and shopping opportunities provided by adjoining businesses. It was Staff's intent to include this minimum floor area requirement to encourage larger massage businesses to locate in more prominent shopping centers, where they can co-exist, rather than isolate themselves, from the rest of the business activities on the property. A larger minimum lease size requirement will likely involve businesses with more employees and/or massage technician contractors, which should reduce illicit behaviors and increase transparency. Furthermore, the cost to lease a larger space discourages smaller massage businesses that aim to operate as a sole proprietor, which is being prohibited in MCA 14-06.

A second option would be to consider reducing the minimum floor area requirement. As shown in Table 1 above, most current massage establishments range in size for 840 to 1,500 s.f, with an average lease area of 1,200 s.f.. Some type of minimum floor area requirement, depending on the reduction, will partially address the concerns related to smaller lease spaces. The Commission should consider that a smaller minimum area requirement would likely equate to additional requests for massage businesses within the City.

A third option is the elimination of a minimum floor area requirement. Staff performed an analysis of an estimated minimum floor area necessary to operate a new massage establishment. Space demand was calculated for male and female restrooms and bathing facilities, laundry, lockers, wash basins and receptionist areas required by both proposed modifications to DDC 19.60.112 and DMC 5.56 (MCA 14-05 and 14-06).

TABLE 3		
Room Function	Estimated area (s.f.)	Area Total (s.f.)
Restroom	60 (per gender)	120
Bathing facilities	50 (per gender)	100
Laundry, employee washbasin	60	60
Lockers	30	30
Receptionist/entry area	200	200
Hallways/misc. space	100	100
TOTAL	-	610

As shown in Table 3, an estimated minimum lease space of 610 s.f. would be needed to accommodate only the rooms and functions mandated by the new ordinances and the typical miscellaneous space present in most floor plans. This leaves a small amount of area in many lease spaces to accommodate private massage rooms, open massage areas, break rooms, offices and other ancillary space needs. Most private massage rooms vary between 60 and 150 s.f., with an average of 100 s.f. One massage business in the City has a large open massage area that is approximately 400 s.f. in area. Considering the minimum space requirements, listed in Table 3, and typical massage and ancillary areas, it would be reasonable to require 1,200 - 1,500 square feet for new massage businesses. Staff contends that eliminating a minimum space requirement would foster more of the type of massage businesses that have generated code and law enforcement concerns in the past and lead to additional massage business requests; both of which demand additional Staff resources related to education with relevant ordinances, application processing, inspection, and enforcement.

The Planning Commission is being asked to deliberate and make a formal recommendation to the City Council on any requirement (or lack thereof) for a floor plan minimum area for new massage establishments.

ATTACHMENTS

Exhibit A — MCA 14-05 City Council Staff Report

Exhibit B — Ordinance 15-O-02

(not included in 4/14/2015 City Council packet)