



MEETING DATE: 06-16-08
ITEM NO:

COUNCIL AGENDA REPORT

DATE: JUNE 11, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

SUBJECT: ACCEPT STAFF REPORT ON EVALUATION PROCESS FOR TOWN CODE
ORDINANCE 2155 REGARDING THE REGULATION OF MASSAGE THERAPY
ESTABLISHMENTS AND MASSAGE THERAPY PRACTITIONERS

RECOMMENDATION:

Accept staff report on evaluation process for Town Code Ordinance 2155 regarding the regulation of massage therapy establishments and massage therapy practitioners.

BACKGROUND:

On November 4, 2007, the Town Council adopted an ordinance regarding the regulation of massage therapy establishments and massage therapy practitioners in the Town of Los Gatos. The ordinance became effective on December 30, 2007. At the Council meeting, Council concurred with staff's suggestion that the administration return to Council in six months with a framework for evaluating the implementation of the ordinance. This report presents the framework for the evaluation process to be used by the Manager's Office.

DISCUSSION:

Evaluation Framework

The purpose of the proposed evaluation process is two-fold: 1) to evaluate the effectiveness of the ordinance in achieving the goals of the ordinance, and 2) to evaluate the regulatory permit process from the participants' perspectives, including both customers and internal staff. The proposed evaluation process is designed to assess key data that is meaningful, yet practical to collect.

With regard to evaluating the effectiveness of the ordinance in achieving the goals of the ordinance, staff will collect and evaluate data related to the following goals:

PREPARED BY: PAMELA S. JACOBS ASSISTANT TOWN MANAGER

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Reviewed by: _____ Assistant Town Manager _____ Town Attorney
Clerk Administrator _____ Finance _____ Community Development

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- To ensure that massage establishments and practitioners obtain a permit pursuant to Ordinance 2155 to operate in Los Gatos;
- To ensure that persons offering massage possess minimum qualifications;
- To ensure that persons offering massage conduct their work in a lawful and professional manner;
- To provide the Police Department access to information to help control any illegal activities in massage establishments.

The following data will be collected and analyzed:

- Number of massage permits granted
- Number of business licenses issued to massage establishments and massage practitioners
- Number of known massage establishments and massage practitioners in Town of Los Gatos
- Number of permitted massage practitioners meeting the educational requirements; number of permitted practitioners pending completion of educational requirements
- Number of and reasons for denials of massage permits
- Number, nature and outcomes of appeal hearings
- Number, nature and outcomes of violations of the massage ordinance

With regard to evaluation of the regulatory permit process, a survey will be conducted of all applicants for massage permits seeking information related to:

- Timeliness of the permit process
- Clarity of the permit process
- Customer service of Town staff involved in the process
- Impacts on massage establishments' and practitioners' business performance
- Qualitative comments about the massage process

In addition, staff will monitor state and local legislation activity to identify trends and issues in massage establishment regulation.

Evaluation of the massage ordinance will occur in December, 2008, with a report provided to Council in January, 2009.

Status of Implementation

To-date, 96 of the identified 106 massage practitioners in Town have applied for a permit and 43 have received identification cards, which denote official approval of their permits. Two applicants were denied permits and have appealed the decision, with one permit being granted conditionally on appeal and the other pending an appeal hearing. The remaining applicants have not yet fulfilled the requirements for business license, insurance, fingerprinting, and/or payment of permit fees.

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Since the ordinance went into effect, staff has worked to resolve internal process issues related to the implementation of this new regulation that involves the Police Department and business licenses. The process has been standardized, with a checklist provided to applicants and a central point of contact and a checklist for internal departments. Staff has identified several places in the ordinance needing clarification. However, because the clarification issues do not impede the implementation of the ordinance, staff is recommending waiting until the evaluation process is completed to introduce amendments to the ordinance. This will enable staff to address any additional ordinance-related issues that arise in the first year of implementation.

Massage practitioners have raised issues regarding the implementation the ordinance, including the educational requirements and the applicability of the ordinance to Rolfing practitioners. Regarding the educational requirements, 20 applicants do not yet have sufficient hours and 9 have outstanding questions regarding the requirements. Applicants completing all other requirements for a permit except educational requirements are granted a permit with 18 months to fulfill the hours required or to make significant progress.

With regard to Rolfing, staff will not be recommending an amendment to the Town's ordinance exempting Rolfing practitioners from permit requirements when clarifications are brought back to Council in January 2009. No other city in Santa Clara County exempts Rolfing practitioners from massage ordinances, and staff is not aware of any other city in California with this exemption. Although a number of other states apparently exempt Rolfing, staff has not identified a compelling rationale for distinguishing this practice from others that involve massage of the human body.

CONCLUSION:

The ordinance regulating massage therapy establishments and practitioners has been in place for approximately six months, and staff is working to process permit applicants in a timely, effective manner. A one-year evaluation of the permit process will occur in December, 2008, with a report on the evaluation provided to Council in January, 2009. The evaluation process will include quantitative and qualitative analysis regarding the implementation of the ordinance, including identification of any recommended revisions to or clarifications for the ordinance.

ENVIRONMENTAL ASSESSMENT:

Is not a project defined under CEQA, and no further action is required.

FISCAL IMPACT:

Funds to cover the data collection and survey costs for the evaluation process are available in the FY 2008109 Operating Budget.