

## ZONING FILE 15-32

### **Attachments:**

1. Staff Report
2. Notice of Public Hearing



## Staff Report

**TO:** City Plan Commission

**FROM:** Chris Shacklett, Senior Planner **CS**

**DATE:** January 15, 2016

**RE:** **Zoning File 15-32:** CZO Amendment, Massage Establishments and Reflexology/Foot Spa Establishments

### **BACKGROUND:**

The Comprehensive Zoning Ordinance (CZO) does not define nor in any way specifically reference either “massage establishments” or “reflexology/foot spa establishments.” These uses have historically been regarded as “office” uses and, therefore, allowed by right in non-residential zoning districts.

In January 2015, the Main Street/Central Expressway Form Based Code (Ordinance No. 4097) was adopted, which included a definition of “massage establishment” and further required approval of a Special Permit for both massage and reflexology/foot spa establishments. The Main Street/Central Expressway Form Based Code regulates an area of approximately 255 acres, including Richardson’s original downtown and commercial properties fronting a portion of Central Expressway.

In December 2015, Staff was directed by City Council to proceed with initiating the process to similarly amend the CZO to require approval of a Special Permits for massage and reflexology/foot spa establishments in order to provide for consistent treatment of these uses throughout the entire city.

Based on visual inspections of shopping centers and other commercial properties, City staff have identified at least forty-two (42) massage and/or reflexology/foot spa establishments currently operating in the City of Richardson.

### **PROPOSED CZO AMENDMENT:**

The proposed amendments entail adding the following definitions to Article I, Section 2, *Definitions* of the Comprehensive Zoning Ordinance, and amending Article XXII-A, Section 2, Use Regulations, to require a Special Permit for a “massage establishment” in non-residential and non-apartment Zoning Districts:

- “massage establishment”
- “massage services, other” and
- “massage therapy”

The term “massage establishment” will be the use added to the Special Permit section of the CZO. The other terms will only be added to the CZO Definitions section to clarify terms used within the definition of “massage establishment”. The proposed definitions are as follows:

- *“Massage establishment” means a massage establishment as defined by Chapter 455, Texas Occupations Code of the State of Texas, as amended and shall include, but not be limited to, establishments known variously as massage parlors, foot spas, reflexology establishments, and salon suites, offering massage, massage therapy or other massage services.*
  - The state defines a massage establishment as a place of business that advertises or offers massage therapy or other massage services. The term includes a place of business that advertises or offers any service described by a derivation of the terms “massage therapy” or “other massage services”.
- *“Massage services, other” means other massage services as defined by Chapter 455, Texas Occupations Code of the State of Texas as amended.*
  - The state defines other massage services as any services offered or performed for compensation at a massage establishment that involve physical contact with a client, and may include the use of oil, lubricant, salt glow, a heat lamp, a hot and cold pack, or a tub, shower, jacuzzi, sauna, steam, or cabinet bath.
- *“Massage therapy” means massage therapy as defined by Chapter 455, Texas Occupations Code of the State of Texas as amended.*
  - The state defines massage therapy as the manipulation of soft tissue by hand or through a mechanical or electrical apparatus for the purpose of body massage and includes effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics. The terms "massage," "therapeutic massage," "massage technology," "myotherapy," "body massage," "body rub," or any derivation of those terms are synonyms for "massage therapy."

Chapter 455, Texas Occupations Code of the State of Texas, does not apply to a person licensed in the state as a physician, chiropractor, occupational therapist, physical therapist, nurse or athletic trainer. Therefore, these licensed individuals would be able to provide massage without first acquiring a Special Permit as a “massage establishment”.

Chapter 455, Texas Occupations Code of the State of Texas, also does not apply to persons already licensed as a cosmetologist in the state. However, per Chapter 1602, Texas Occupations Code of the State of Texas, massage provided by a cosmetologist is limited to a person’s scalp, face, neck, arms, hands, and feet. These are areas that may typically be massaged by a licensed

cosmetologist also providing barber and beauty salon service, which are allowed by right in Retail and Commercial Zoning Districts. Again, a cosmetologist operating under the restrictions of Chapter 1602 would also be allowed without first acquiring a Special Permit for a “massage establishment”.

## **CONSIDERATIONS:**

The requirement of a Special Permit is proposed in order to provide for regulatory consistency throughout the entire City.

### **Uses Requiring Special Permits**

The Comprehensive Zoning Ordinance presently regulates seventy-nine (79) uses by Special Permit. The range of uses requiring a Special Permit is diverse, as the following examples illustrate: amusement arcades and commercial amusement centers; antennas; assisted living, convalescent and independent living facilities; beer and wine package sales; boarding kennels; check cashing/payday advance loan or car title loan businesses; child care centers; heavy manufacturing; helipads; limited service hotels; motor vehicle –related uses; restaurants with drive-through service; private & parochial schools; sexually-oriented businesses, smoking establishments, electronic cigarette establishments, and large scale retail.

### **Effect on Existing Massage Establishments & Reflexology/Foot Spa Establishments**

- Upon enactment of the Comprehensive Zoning Ordinance amendment, all existing massage establishments would become legal, non-conforming uses, except the Phenix Salon Suites located at the Richardson Heights Shopping Center, which received approval of a Special Permit in December 2015.
- Legal, non-conforming status does not affect current operations and does not require owners or operators to obtain a Special Permit.
- Should expansion of a legal, nonconforming massage establishment or reflexology/foot spa establishment be desired, the owner would first have to obtain approval of a Special Permit from City Council.
- Should a legal, non-conforming establishment cease operations for a minimum period of six consecutive months, the right to re-establish the use without approval of a Special Permit would be forfeited.

## **MOTION:**

Should the Commission choose to recommend approval of the amendment as presented, the motion should include the following:

- (1) Add the definition of “massage establishment” to Article I, Section 2, Definitions of Appendix A of the Code of Ordinances (Comprehensive Zoning Ordinance):

*“Massage establishment” means a massage establishment as defined by Chapter 455, Texas Occupations Code of the State of Texas, as amended and shall include, but not be limited to, establishments known variously as massage parlors, foot spas, reflexology*

*establishments, and salon suites, offering massage, massage therapy or other massage services.*

- (2) Add the definition of “massage services, other” to Article I, Section 2, Definitions of Appendix A of the Code of Ordinances (Comprehensive Zoning Ordinance):

*“Massage services, other” means other massage services as defined by Chapter 455, Texas Occupations Code of the State of Texas as amended.*

- (3) Add the definition of “massage therapy” to Article I, Section 2, Definitions of Appendix A of the Code of Ordinances (Comprehensive Zoning Ordinance):

*“Massage therapy” means massage therapy as defined by Chapter 455, Texas Occupations Code of the State of Texas as amended.*

- (4) Add massage establishment as a use allowed subject to approval of a Special Permit under Article XXII-A, Section 2 in all non-residential and non-apartment Zoning Districts.

**Possible Council Hearing Date:** February 8, 2016.

City of Richardson  
Public Hearing Notice  
Zoning File 15-32

The Richardson City Plan Commission will conduct a public hearing at 7:00 p.m. on Tuesday, January 19, 2016, in the Council Chambers, Richardson Civic Center/City Hall, 411 W. Arapaho Road, to consider ZF 15-32, a request by the City of Richardson to amend the Comprehensive Zoning Ordinance (Appendix A) of the Code of Ordinances, Article I, Section 2 (Definitions), by adding the definition of massage establishment and by amending Article XXII-A, Section 2 (Special Permits – Use Regulations) to allow massage establishments upon approval of a Special Permit in non-residential and non-apartment zoning districts.

If you wish your opinion to be part of the record but are unable to attend, send a written reply prior to the hearing date to the Dept. of Development Services, City of Richardson, P.O. Box 830309, Richardson, Texas 75083-0309. For more information call 972-744-4240.

Posted January 7, 2016