



ORDINANCE NO. 2014-08-03

An Ordinance adopting land use regulations, and establishing regulations on the location of massage providers.

WHEREAS, illegal massage establishments affect the health, safety, and welfare of county residents; and

WHEREAS, Clark County has seen a growing potential for illegal massage establishments in recent years; and

WHEREAS, the local control is essential to taking a proactive stance to prevent illegal massage establishments from coalescing with County jurisdiction; and

WHEREAS, this ordinance is necessary for the protection of public health, public safety, public property, and the public peace; and

WHEREAS, the Board held a duly advertised public hearing on August 12, 2014 to review the recommendations of the Planning Commission; Now, Therefore,

BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Amendatory. CCC Section 40.230.010, as last amended by Ord. 2010-12-12, is amended as follows:

40.230.010 COMMERCIAL DISTRICTS (C-2, C-3, GC)

Table 40.230.010-1. Uses.				
8. Services – Personal.	C-2	C-3	GC	Special Standards
a. Self-service laundries, dry cleaning, including pressing, alteration, garment and accessory repair, excluding industrial cleaning services	P	P	P	

b. Barber and , beauty shops and day spas	P	P	P	
c. <u>Day spas, massage parlors, public bathhouses, and reflexology businesses</u>	<u>R/A</u>	<u>R/A</u>	<u>R/A</u>	<u>Ch. 5.70</u>
d.e. Clothing rental establishments	X	P	P	
e.d. Mortuaries	X	X	P	
f.e. Tattoo/body art studio	X	P	P	

Section 2. New. A new Chapter 5.70 of the Clark County Code is hereby adopted that addresses the siting of massage establishments and issuance of a certificate of occupancy, as follows:

Chapter 5.70 DAY SPAS, MASSAGE PARLORS, PUBLIC BATHHOUSES AND REFLEXOLOGY BUSINESSES

5.70.010 Purpose.

The purpose of this chapter is to regulate the location, licensing and operation of day spas and massage parlors in order to promote the health, safety and welfare of all Clark County citizens and in order to preserve and protect the quality of, and the quality of life in and around, all Clark County neighborhoods through effective land use planning and reasonable regulation.

5.70.020 Applicability.

1. This chapter shall apply to both new and existing day spas, massage parlors and public bathhouses where allowed in the unincorporated areas of the county, as defined in Section 5.70.030.
2. Uses covered by this chapter may require land use review pursuant to Title 40.

5.70.030 Definitions.

1. 'Day spa' means any place where services are provided for the purpose of improving health, beauty and relaxation through personal care treatments such as massages and facials. It is different from a beauty salon in that it contains facilities like sauna, pool, steam room and whirlpool that guests may use in addition to their treatment.
2. 'Massage parlor' means any place where massages or reflexology are given or furnished for, or in expectation of, any fee, compensation or monetary consideration.

3. 'Public bathhouse' means any place where baths or facilities for baths of any kind whatever are given or furnished and the terms shall include but not be limited to: Finnish baths; Russian baths; sauna baths; Swedish baths; Turkish baths; baths by hot air, steam, vapor, water or electric cabinet; provided, that such term shall not include ordinary tub or shower baths where an attendant is not provided or present.
4. A person represents himself or herself as a massage practitioner when the person adopts or uses any title or description of service that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, reflexologist, acupressurist, body therapy or body therapist or any derivation of those terms that implies a massage technique or method.

5.70.040 Review/Approval Criteria.

It is unlawful to conduct, operate or maintain a day spa, massage parlor, or public bathhouse that provides massage service or reflexology unless the establishment, its owner/operator, and its employees hold valid licenses, as follows:

1. Applicant for new uses is required to provide proof of employee licenses issued by the state at the time of application.
2. Employee licenses issued by the State are required for Massage Therapists, Massage Practitioners, Reflexologists, and any other applicable profession for which the State issues licenses must be displayed conspicuously on the premises accompanied by a 2inch by 2inch photo of the licensee.

5.70.050 Exemptions.

The provisions of this chapter do not apply to the following:

1. Persons giving massage treatments or baths in a private residence or bona fide private social or athletic club having been in existence for at least two years from the date of the adoption of this ordinance, not open to the public generally;
2. Athletic coaches or trainers affiliated with public or private educational institutions or athletic organizations;
3. Students enrolled under the direction of and in the presence of a licensed masseur in schools of massage performing such practices of massage as are incidental to their course of study;
4. Massage treatments given in any hospital, medical or chiropractic clinic, licensed nursing or convalescent homes, or by licensed physical therapists; and
5. Licensed beauty operators and barbers who perform only such acts of massage as are customarily given in beauty salons and barbershops for purposes of beautification only are also exempt from the provisions of this chapter.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect immediately upon its adoption.

Section 5. Instructions to the clerk.

The Clerk to the Board shall:

1. Record a copy of this ordinance with the Clark County Auditor.
2. Transmit a copy of this ordinance to the State Department of Commerce within ten days of its adoption.
3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290.
4. Transmit a copy of this ordinance to Code Publishing, Inc. to update the electronic version of the Clark County Code.

ADOPTED this 12th day of August, 2014.

Attest:

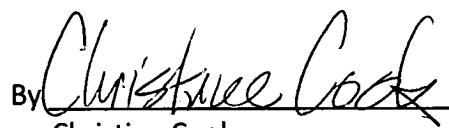

Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, WASHINGTON

By 
Tom Mielke, Chair

Approved as to Form Only:
ANTHONY F. GOLIK
Prosecuting Attorney

By _____
David Madore, Commissioner

By 
Christine Cook
Senior Deputy Prosecuting Attorney

By _____
Edward L. Barnes, Commissioner



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COMMUNITY PLANNING

STAFF REPORT

TO: Board of Clark County Commissioners
FROM: Jeff Niten, Planner III
DATE: August 11, 2014
SUBJECT: Updates to Title 5 and Title 40 relating to massage businesses.

BACKGROUND

In order to address what has recently become a high profile issue Clark County is proposing an ordinance to regulate massage oriented businesses. The draft code specifically addresses massage businesses as a separate entity to protect community health, safety, and welfare. This draft code is also intended to protect the reputation and integrity of legitimate massage businesses currently operating and would-be future legitimate business owners. Staff presented the draft code to several different massage businesses and a massage school for comment on the proposal. No comments were received. Staff also presented the proposed code to NAACC on May 12, 2014.

PROPOSED ACTION

Staff developed an ordinance to regulate massage establishments within Clark County. The draft ordinance is attached. The Planning Commission heard this matter on June 19, 2014 and recommended adoption of ordinance by a 4-0 vote with several text changes including requirement of a photo to be displayed with the state issued licenses, and applying this ordinance retroactively. These changes are reflected in the attached draft ordinance.