

**CLARK COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM**

Issue: Public Hearing to Amend Title 7, of the Clark County Code – Reflexology	Back-up:
Petitioner: Jacqueline R. Holloway, Director of Business License	Clerk Ref. #
<p>Recommendation: That the Board of County Commissioners conduct a public hearing and approve, adopt and authorize the Chairman to sign an ordinance to amend Title 7 of the Clark County Code by adding a new Chapter, Chapter 7.07, to establish regulations pertaining to the operations of certified reflexologists and reflexology establishments including educational requirements, background investigations, operational requirements and fees; providing that certain acts are unlawful; and providing for other matters properly relating thereto. (For possible action)</p>	

FISCAL IMPACT:

Fund # N/A
Description: N/A
Fund Center: N/A

Funded Program/Grant: N/A
Fund Name: N/A
Amount: N/A

BACKGROUND:

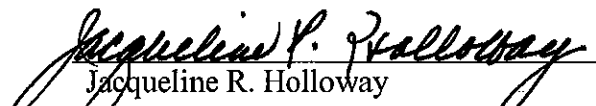
The practice of reflexology is currently not regulated by the State of Nevada. The purpose of this Ordinance is, through licensure and regulation, to protect the health, safety and welfare of the public by ensuring that only certified reflexologists are licensed within Clark County. The Ordinance establishes educational and work experience standards for the individual reflexologists and operational standards for reflexologists and reflexology establishments.

The Ordinance requires that all persons licensed as Drugless Practitioners that are conducting reflexology or operating reflexology establishments apply for and obtain a license as a Certified Reflexologist or Reflexology Establishment by May 31, 2014. Such persons currently licensed as Drugless Practitioners as of February 18, 2014, will be exempt from the requirements to submit to a background investigation and to submit proof of education and experience requirements.

At the January 7, 2014, Board of County Commissioners' meeting an ordinance was introduced to establish regulations pertaining to the operations of certified reflexologists and reflexology establishments including educational requirements, background investigations, operational requirements and fees. On January 21, 2014, the Board considered and approved the Business Impact Statement in compliance with NRS Chapter 237.

**APPROVED (INCLUDING ADOPTION OF ORDINANCE
NO. 4173 AS AMENDED) AS RECOMMENDED**

Respectfully submitted,


Jacqueline R. Holloway
Director

Cleared for Agenda
<MEETING DATE>
2/4/14 MD
Agenda Item #
44

~~[Bracketed and stricken]~~ material is that portion being deleted

Underlined material is that portion being added

BILL NO. 1-7-14-2 (A)

SUMMARY — An ordinance to amend Title 7 of the Clark County Code by adding a new Chapter 7.07 (“Reflexology”) to establish regulations pertaining to the operations of certified reflexologists and reflexology establishments including educational requirements, background investigations, operational requirements and fees; providing that certain acts are unlawful; and providing for other matters properly relating thereto.

ORDINANCE NO. 4173
(of Clark County, Nevada)

AN ORDINANCE AMENDING TITLE 7 OF THE CLARK COUNTY CODE BY ADDING A NEW CHAPTER 7.07 (“REFLEXOLOGY”) TO ESTABLISH REGULATIONS FOR THE OPERATION OF CERTIFIED REFLEXOLOGISTS AND REFLEXOLOGY ESTABLISHMENTS INCLUDING EDUCATIONAL REQUIREMENTS, BACKGROUND INVESTIGATIONS, OPERATIONAL REQUIREMENTS AND FEES; PROVIDING THAT CERTAIN ACTS ARE UNLAWFUL; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF
NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 7 of the Clark County Code is amended by the addition of a new chapter 7.07 to read as follows:

SECTIONS:

7.07.010 — Declaration of Policy

7.07.020 — Definitions

7.07.030 - Exemptions

7.07.040- License Application - Background Investigation and Educational Requirements.

7.07.050 - License fees.

7.07.060 — Operating Requirements - Reflexology Establishments.

7.07.070 — Operating Requirements - Certified Reflexologists.

7.07.080 — Outcall Reflexology.

7.07.090 - Advertising.

7.07.100 — Solicitation of Sexual Activity Prohibited.

7.07.110 — Duties of a Licensee.

7.07.120 — Effect on Licensed Drugless Practitioners Conducting Reflexology.

Section 7.07.010 Declaration of Policy:

It is found and declared that the public health, safety, morals and welfare of the inhabitants of the county, and the police power of the county, require the regulation and control of all persons engaged in the business of reflexology or in the operation of reflexology establishments. All reflexologists and reflexology establishments, as hereinafter defined in this chapter, shall be licensed Certified Reflexologists and Reflexology Establishments, respectively, and regulated so as to protect the public health, safety, morals and general welfare of the inhabitants of the county and to safeguard the public. It is further found and declared that the right to obtain such licenses is a privilege and that the operation of a Certified Reflexologist or Reflexology Establishment, when authorized by such license, is a privileged business subject to regulations, and that the license may be revoked for violation of the conditions of this Chapter and Chapter 6.04 of this code. In conformity with the policy of this chapter, the following persons are declared not to be qualified to hold a license under the provisions of this chapter:

- (a) A person who does not possess, or who does not have a reputation for possessing a good moral character:
- (b) A person who is under the age of the age of twenty-one years;
- (c) A person who has been convicted of a crime involving moral turpitude;

(d) A person who the board of county commissioners determines is not a suitable person to receive or hold a license, after due consideration for the protection of the public health, safety, morals and general welfare of the inhabitants of the county.

Section 7.07.020 Definitions. As used in this chapter:

(a) "Advertising" means the placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "reflexologist" or "reflexology."

(b) "Continuing Education" means any planned learning experience that builds on the education gained in an initial program of reflexology training. Each learning experience must be designed to acquire or improve skills, knowledge, or behavior needed to promote a reflexologist's professional or technical development, or advance career goals, and to foster personal growth and development.

(c) "Certified Reflexologist" means a person who uses special pressure techniques on the reflexes in the human feet, hands, and ears and who has studied the principles of reflexology, anatomy and physiology generally included in a regular course of study of reflexology and has:

1. completed a course of study provided by a duly licensed school of reflexology, the curriculum of which includes:

a. at least 110 hours of instruction, covering:

i. reflexology theory, and history, and hands on work;

ii. anatomy and physiology correlated to reflexology;

iii. anatomy and physiology specifically focused on the

study of the lower leg and foot; and

iv. business practice which involves ethics and business standards; and

b. at least 90 hours of practicum; or

2. received a certification from an independent national reflexology testing entity which requires as a prerequisite for examination the education and experience contained in Subsection (c)(1) of this Section and is not affiliated with any school, training program, or membership.

(d) "Designated Manager" means a person who is either the licensee of a Reflexology Establishment or is an employee of the licensee of a Reflexology Establishment who is responsible for the day to day operations of the Reflexology Establishment including the management of employees and Certified Reflexologists.

(e) "Reflexology" means a science which deals with the principle that there are reflex areas in the outer ears, feet and hands which correspond to all of the glands, organs and parts of the body. Stimulating these reflexes properly can help many health problems in a natural way, a type of preventative maintenance.

(f) "Reflexology Establishment" means any fixed place of business where any individual, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on, or permits to be engaged in or conducted, for money or any other consideration, any reflexology services, including any businesses that provide reflexology as an accessory service to their principal permitted use.

Section 7.07.030 Exemptions.

The provisions of this chapter shall not apply to:

(a) Providers of health care who are duly licensed to practice their respective

professions in the state of Nevada, who in the course of their practice, provide reflexology as incidental to their primary practice on the licensed premises:

(b) Registered nurses and licensed practical nurses, acting under the direct supervision of, and on the business premises of a state licensed provider of health care, who only provide reflexology to the provider of health care's patients;

(c) Barbers and cosmetologists who are duly licensed under the laws of the state of Nevada and who perform reflexology included within the practice of barbering or the practice of cosmetology defined by state law;

(d) Independent Massage Therapists licensed by the Nevada State Board of Massage Therapists who perform massage of the feet, hands and outer ears, but do not hold themselves out as a Certified Reflexologist or Reflexology Establishment.

Section 7.07.040 License Application - Background Investigation and Educational Requirements.

(a) Any person, prior to conducting reflexology or operating a reflexology establishment must obtain a business license as provided for in this Chapter and Chapter 6.04 of this code as a Certified Reflexologist or Reflexology Establishment; and

(b) Each applicant for a Certified Reflexologist or Reflexology Establishment business license shall include fees for a criminal background investigation in accordance with Chapter 6.08 of this code; and

(c) Each applicant for a Certified Reflexologist business license shall include with their application:

(1) A diploma or certification for the practice of reflexology, issued by a duly licensed school of reflexology, the curriculum of which includes:

a. at least 110 hours of instruction, covering:

- i. reflexology theory, and history, and hands on work;
- ii. anatomy and physiology correlated to reflexology;
- iii. anatomy and physiology specifically focused on the study of the lower leg and foot; and
- iv. business practice which involves ethics and business standards; and

b. at least 90 hours of practicum; or

(2) certification from an independent national reflexology testing entity which requires as a prerequisite for examination the education and experience contained in Subsection (c)(1) of this Section and is not affiliated with any school, training program, or membership.

(d) Each Certified Reflexologist shall include, upon renewal of their business license, a letter of attestation confirming completion of at least 6 Continuing Education Credits offered, endorsed or accredited by the Nevada State Medical Association, Nevada State Board of Nursing, Chiropractic Physician's Board, American Reflexology Certification Board, or the Reflexology Association of America.

Section 7.07.050 License Fees.

- (a) Each Certified Reflexologist must pay a license fee of \$200.00 annually.
- (b) Each Reflexology Establishment must pay a license fee of \$200.00 annually.

Section 7.07.060 - Operating Requirements-Reflexology Establishments.

- (a) Every portion of the Reflexology Establishment shall be kept in a clean and

sanitary condition.

(b) All reception, hallway and exterior doors (except exterior doors used only for employee entrance to and exit from the Reflexology Establishment) shall be kept unlocked during business hours. No reflexology service may be given within any cubicle, room, booth or any area which is fitted with a door, unless that door is an exterior door, or there is a window allowing an unobstructed view from the interior of the Reflexology Establishment into the service room. No electronic locking device may be utilized on any interior door.

(c) All patrons of the Reflexology Establishment must remain fully clothed at all times except to remove any articles of clothing that are necessary for the administration of reflexology while undergoing reflexology.

(d) A Designated Manager shall be on the premises at all times of operation. The Designated Manager shall also be responsible for accepting citations, written correspondence, and any other communications from the Department or LVMPD.

(e) The Designated Manager shall maintain a daily list of all Certified Reflexologists along with their business license numbers who are providing reflexology. Such list shall be open for inspection and available for viewing by all patrons and by agents of the Department or LVMPD at all times the establishment is open. Any citations, arrest or events prompting LVMPD's attention must be reported to the Department within twenty-four (24) hours.

(f) Price rates for all reflexology services and a refund policy shall be prominently posted in the reception area and service rooms available to all prospective customers. Prices listed shall not be negotiated by any owner, Certified Reflexologist, or other

employee or independent contractor associated with the establishment.

(g) All Reflexology Establishments shall remain closed to the public, with no signage indicating the establishment is open for any purpose, if at any time prior to, during, or after normal hours of operation, a Certified Reflexologist is not on the premises to perform any service within the scope of this license.

(h) Except as otherwise specified in a special use permit issued to a reflexology establishment pursuant to Title 30 of this code, Reflexology Establishments shall only operate, including outcall reflexology services, between the hours of 8:00 a.m. to 12:00 a.m. (midnight), except for reflexology offered by a Certified Reflexologist within the premises of a resort hotel as defined in Section 8.04.010 of this code.

Section 7.07.070 - Operating Requirements-Certified Reflexologists.

(a) Certified Reflexologists shall wear opaque, nontransparent outer garments. Said garments shall not expose specified anatomical areas, as defined in Section 6.95.010 of this code, or the chest area.

(b) Certified Reflexologists may not diagnose or treat for specific diseases, practice spinal or other joint manipulations, prescribe or adjust medication, or prescribe or administer vitamins.

(c) Certified Reflexologists shall only place their hands on or touch a patron's outer ears, hands and arms below the elbows, or feet and lower legs below the knees.

Section 7.07.080 - Outcall Reflexology.

Reflexology on an outcall basis is only permitted by a licensed Certified Reflexologist on a patron at the patron's temporary or permanent residence or at the patron's place of business. A record must be kept of the date and hour of each service, the name and address of each patron, and the name of the Certified Reflexologist

providing services. The Certified Reflexologist shall provide a receipt for services rendered with their business license number printed on the same.

Section 7.07.090 - Advertising.

(a) No person shall advertise as a reflexologist operating in unincorporated Clark County unless the person is licensed by the Department as a Certified Reflexologist pursuant to this chapter.

(b) No business shall advertise as a reflexology establishment operating in the unincorporated Clark County unless such business is licensed by the Department as a Reflexology Establishment pursuant to this chapter.

(c) No Certified Reflexologist or Reflexology Establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or, through the exercise of reasonable care, should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any reflexology services.

(d) All advertising by a Certified Reflexologist or Reflexology Establishment must include his or her name, the name of his or her company, if applicable, and business license number.

Section 7.07.100 - Solicitation of sexual activity prohibited.

It is unlawful for any Certified Reflexologist, Reflexology Establishment owner, employee, agent, representative or patron thereof, to solicit or engage in sexual activity from or with any person at any time within a Reflexology Establishment or while conducting reflexology on an outcall basis.

Section 7.07.110 - Duties of a Licensee.

(a) Every Reflexology Establishment licensee shall be responsible for the conduct of his or her employees, agents, independent contractors, representatives, or other persons, on the premises of the business or establishment or while providing outcall reflexology services.

(b) It is the affirmative duty of a Reflexology Establishment licensee to strictly enforce all the provisions of this code and state statutes in the licensed establishment and, without limiting the generality of the foregoing, each licensee must:

1. Maintain and conduct all activities upon the premises in a decent, orderly and respectful manner and shall not knowingly permit within or upon the licensed premises any lewd activity, nudity, or topless activity, disorder, disturbance, or other activity which endangers the health or safety of the patrons or disrupts the peace of the neighborhood.

2. Maintain adequate security to ensure compliance with the requirements of subsections (a) and (b) of this section.

(c) For the purpose of this section, "premises" means all portions of the building in which the licensee is located and over which it has control and that area of the parking lot over which the licensee has ownership or contractual parking privileges.

Section 7.07.120 - Effect on Licensed Drugless Practitioners Conducting Reflexology.

All Drugless Practitioner business licensees conducting reflexology or operating reflexology establishments will have until May 31, 2014, to apply for a Certified Reflexologist or Reflexology Establishment Business License. Drugless Practitioner

business licensees that are required to obtain a business license as a Certified Reflexologist or a Reflexology Establishment, pursuant to the provisions of this Chapter, and have a current, unexpired Drugless Practitioner business license as of February 18, 2014, will be exempt from the requirements in Subsection 7.07.040 (b) and (c). All Drugless Practitioner business licenses held by persons that are required to obtain a business license as a Certified Reflexologist or Reflexology Establishment will expire on May 31, 2014.

SECTION 2. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this ordinance. It is the intent of the county commission in adopting this ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision and to this end all provisions of this ordinance are declared to be severable.

SECTION 3. All ordinances, part of ordinances, chapters, sections, subsections, clauses, phrases, or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only. together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 7th day of January, 2014.

PROPOSED BY: Commissioner Steve Sisolak

PASSED on the 4th day of February, 2014.

AYES: Susan Brager

Lawrence L. Brown III

Tom Collins

Chris Giunchigliani

Mary Beth Scow

Steve Sisolak

Lawrence Weekly

NAYS: None

ABSTAINING: None

ABSENT: None

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

BY: _____

STEVE SISOLAK, Chairman

ATTEST:

Diana Alba
DIANA ALBA, County Clerk

APPROVED AS TO FORM:

Robert Gower

ROBERT GOWER, Deputy District Attorney