



CITY COUNCIL 345 6th Street, Suite 100, Bremerton, WA 98337 - Phone (360) 473-5280

AUGUST 21, 2019
CITY COUNCIL MEETING AGENDA

1. **BRIEFING**: 5:00 – 5:30 P.M. in **COUNCIL CONFERENCE ROOM 603**
 - A. Review of Agenda
 - B. General Council Business
2. **CALL TO ORDER**: 5:30 P.M. in **FIRST FLOOR CHAMBERS**
 - A. Pledge of Allegiance
 - B. Invocation
3. **MAYOR'S REPORT**
4. **PUBLIC RECOGNITION**
5. **CONSENT AGENDA**
 - A. Claims & Check Register
 - B. Minutes of Meeting – August 7, 2019
 - C. Minutes of Study Session – August 14, 2019
 - D. Professional Services Agreement with Parametrix, Inc. for Design of Downtown Bremerton Bicycle/Pedestrian Circulation Improvements Project
 - E. Local Agency Participating Agreement Amendment No. 1 with WSDOT for Signal Systems as part of the SR 304 (Burwell Street) Overlay Project
 - F. Interlocal Agreement Exhibit A with Kitsap County for Annual Striping Services
 - G. Professional Services Agreement with HDR Engineering, Inc. for the Wastewater Salinity Impact Study
 - H. Commercial & Investment Real Estate Purchase & Sale Agreement with Peterson Neil J Family LLC for property located at Oyster Bay Avenue North, Lot 007-02
 - I. Additional Equipment Rental and Labor Costs associated with Bypass Pumping Contract at Pump Station CE-4
 - J. Contract Modification Agreement No. 1 with FCS Group for Engineering Division Workload Study
 - K. Telecommunications Facilities Lease Agreement Amendment No. 2 with Seattle SMSA Limited Partnership d/b/a Verizon Wireless
 - L. Ordinance No. 5373 creating Chapter 5.14 of the Bremerton Municipal Code entitled “Massage and Reflexology Businesses”
6. **PUBLIC HEARING(S)**
 - A. Public Hearing and Ordinance No. 5375 revising the Corporate Boundary with Kitsap County at the south end of Oyster Bay Avenue
7. **GENERAL BUSINESS**
 - A. Interlocal Agreement and Utility, Street Frontage, & Traffic Study Agreement with the Quinault Indian Nation
8. **COUNCIL MEMBER REPORTS**
9. **ADJOURNMENT OF CITY COUNCIL BUSINESS MEETING**



Americans with Disabilities Act (ADA) accommodations provided upon request. Those requiring special accommodations please contact the City Clerk at (360) 473-5323 at least 24 hours prior to the meeting.

AGENDA BILL
CITY OF BREMERTON
CITY COUNCIL

5L

SUBJECT:

Ordinance No. 5373 creating Chapter 5.14
of the Bremerton Municipal Code entitled
"Massage and Reflexology Businesses"

Study Session Date: August 14, 2019

COUNCIL MEETING Date: August 21, 2019

Department: Police

Presenter: Jim Burchett

Phone: (360) 473-5224

SUMMARY: To create Chapter 5.14 of the Bremerton Municipal Code entitled "Massage and Reflexology Businesses".

ATTACHMENTS: 1) Ordinance No. 5373 [Updated]

FISCAL IMPACTS (Include Budgeted Amount):

STUDY SESSION AGENDA: Limited Presentation Full Presentation

STUDY SESSION ACTION: Consent Agenda General Business Public Hearing

RECOMMENDED MOTION:

Move to pass Ordinance No. 5373 creating Chapter 5.14 of the Bremerton Municipal Code entitled "Massage and Reflexology Businesses".

COUNCIL ACTION: Approve Deny Table Continue No Action

ORDINANCE NO. 5373

AN ORDINANCE of the City Council of the City of Bremerton, Washington, creating Chapter 5.14 of the Bremerton Municipal Code entitled “Massage and Reflexology Businesses.”

WHEREAS, the City Council desires to create a new chapter, Chapter 5.14 of the Bremerton Municipal Code, relating to massage and reflexology businesses; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new chapter, Chapter 5.14, entitled "Massage and Reflexology Businesses" is hereby added to the Bremerton Municipal Code to read as follows:

**Chapter 5.14
MESSAGE AND REFLEXOLOGY BUSINESSES**

5.14.010 TITLE AND PURPOSE

The City of Bremerton (“City”) recognizes the health and wellness benefits of massage and reflexology, and that massage and reflexology businesses in the City serve a legitimate and beneficial purpose in the community.

The City also recognizes that there are some businesses that hold themselves out as massage or reflexology businesses, but employ unlicensed persons to provide massage or reflexology who fail to follow state health and licensing requirements, and do not have the proper training required to obtain a state license or certification.

In addition, these businesses that employ unlicensed or uncertified persons to provide massage and reflexology are frequently used to facilitate the commission of various criminal acts, including but not limited to prostitution.

Businesses that permit unlicensed or uncertified persons to perform massage and reflexology or permit the commission of unlawful acts threaten the business and reputation of legitimate and licensed businesses and therapists, and present a threat to the public health, safety, and welfare.

This chapter is intended to inhibit the ability of an individual or business to engage in the practice of providing unlicensed massage and uncertified reflexology, support the legitimate provision of these services by licensed massage therapists and certified reflexologists, enable consumers to more easily identify licensed massage therapists and certified reflexologists, and regulate massage and reflexology businesses in the best interests of the community.

5.14.020 DEFINITIONS.

For purposes of this section, “certified reflexologist,” “massage,” “massage therapy,” “massage business,” “massage therapist,” “reflexology,” and “reflexology business” shall have

the meanings set forth in RCW 18.108.010, adopted and incorporated herein by this reference, as currently enacted and hereinafter amended.

5.14.030 GENERAL BUSINESS LICENSE REQUIRED.

It is unlawful to conduct, operate or maintain a massage, or reflexology business as an owner or manager without first applying for, receiving and possessing a general business license pursuant to Chapter 5.02 BMC.

5.14.040 LICENSURE OR CERTIFICATION REQUIRED.

It shall be unlawful for any person to practice or represent himself or herself as a massage therapist or reflexologist in the City without first applying for and receiving a license or certification to practice from the State Department of Health pursuant to RCW 18.108.030, adopted and incorporated herein by this reference, as currently enacted and hereinafter amended. Failure to have a license or certification as required by this section shall be a misdemeanor.

5.14.050 MASSAGE OR REFLOEXOLOGY BUSINESS OWNER OR MANAGER TO ENSURE VALID LICENSE OR CERTIFICATION – VIOLATION.

Any person who with knowledge or criminal negligence allows or permits the unlicensed practice of massage therapy or reflexology to be committed within his or her massage business or reflexology business by another is guilty of a misdemeanor for a single violation. Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a gross misdemeanor.

5.14.060 DISPLAY OF LICENSE OR CERTIFICATION.

A licensed massage therapist or a certified reflexologist must conspicuously display their credential in their principal place of business in accordance with RCW 18.108.045, adopted and incorporated herein by this reference, as currently enacted and hereinafter amended. If the licensed massage therapist or certified reflexologist does not have a principal place of business or conducts business in any other location, they must have a copy of their credential available for inspection to persons receiving massage or reflexology services or to a City law enforcement officer upon request while performing services within their authorized scope of practice.

5.14.070 INSPECTION OF PREMISES BY CITY LAW ENFORCEMENT PERSONNEL.

To the extent authorized by RCW 18.108.190, adopted and incorporated herein by this reference, as currently enacted and hereinafter amended, City law enforcement personnel shall have the authority to inspect the premises of any business where massages or reflexology services are provided.

5.14.080 VERIFICATION OF LICENSE OR CERTIFICATION.

If a City official or City law enforcement officer has cause to believe that a massage license or reflexology certification is fraudulent, expired or not issued to a person who represents it to be their license or certification, the City official or City law enforcement officer may require verification of the license or certification. Verification includes, but is not limited to, a

comparison of the license or certification with a government issued identification bearing the photograph and date of birth of the license or certification holder.

5.14.090 DENIAL, SUSPENSION AND REVOCATION - PROCEDURE.

Any application for the issuance or renewal of a general business license issued under this chapter may be denied, or any license issued under this chapter may be suspended or revoked based on one or more violations of the provisions of this chapter or BMC 5.02.170. The procedures for denial, revocation, and appeal are set forth in BMC 5.02.180.

5.14.100 ADDITIONAL ENFORCEMENT.

Notwithstanding the existence or use of any other remedy, the City may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any provisions of this chapter.

SECTION 2. Ordinance Review. The City will review, and if necessary, revise the message and reflexology business ordinance to reflect changed circumstances or new information on or about the one year anniversary of the adoption of the ordinance.

SECTION 3. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener, clerical, typographical, and spelling errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 4. Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

PASSED by the City Council the _____ day of _____, 2019.

ERIC YOUNGER, Council President

Approved this _____ day of _____, 2019.

GREG WHEELER, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA WOODS, City Clerk

ROGER A. LUBOVICH, City Attorney

PUBLISHED the _____ day of _____, 2019.

EFFECTIVE the _____ day of _____, 2019.

ORDINANCE NO. _____

R:\Legal\Legal\Ordinances\Police\Massage Businesses\BMC 5.14 Massage Business Ordinance Final9 - 8-12-19.docx



ADVOCATE FOR MASSAGE THERAPY AS A RECOGNIZED AND RESPECTED HEALTHCARE PROFESSION

Date: 13 August 2019

To: Eric Younger, Bremerton City Council President, and Council Members ---
City.Council@ci.bremerton.wa.us
Greg Wheeler, Mayor of the City of Bremerton -- Greg.Wheeler@ci.bremerton.wa.us
Roger A. Lubovich, City Attorney for the City of Bremerton -- legal@ci.bremerton.wa.us
Jim Burchett, Chief of Police for the City of Bremerton --
James.Burchett@ci.bremerton.wa.us

From: Marybeth Berney, LMT, WSMTA President and Board Member
Robbin Blake, LMT, WSMTA Government Relations Director and Board Member --
rblake@mywsmta.org

Re: Bremerton City Ordinance 5373 -- Chapter 5.14 Massage and Reflexology Businesses

The Washington State Massage Therapy Association supports the language written in the "BMC 5.14 Massage Business Ordinance Final 9 8-12-19.docx" version of the ordinance regarding Chapter 5.14 Massage and Reflexology Businesses of the Bremerton City Ordinance 5373. This is the document which will be presented at the August 14, 2019 Bremerton City Council Meeting.

The basis for Chapter 5.14 is another Washington city's ordinance that has been successful at keeping out illegal businesses posing as massage therapy and reflexology entities for years.

The logic of Chapter 5.14 is simple and doesn't rely on undercover police work to shut down illegal businesses which helps to keep the Bremerton law enforcement establishment safe and reduces expenses, while keeping the general public safe. The proposed chapter will also permit legitimate massage therapists and reflexologists the ability to practice their professions with little impact to them.

We greatly thank Chief Jim Burchett for engaging with and listening to the state associations for massage therapy and reflexology and for all of the outreach he did with the local massage community. He was the key to successfully pulling the current Chapter 5.14 language together.

We strongly encourage the Bremerton City Council to pass the language of this ordinance as it is written.

Thank you for your consideration.

Should any person reading this document require more details, please contact Robbin Blake at rblake@mywsmta.org.

Washington State Massage Therapy Association



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Michael J. Mandell

Treasurer

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Joseph Major

Community Service

Massage Team

Linda Bucher

Volunteer Development

Coordinator

Allison Hanelt

Memorandum:

To: Jim Burchett, Chief of Police, City of Bremerton

From: Michael J. Mandell, LMT, President, AMTA-WA

Re: Massage and Reflexology Businesses Ordinance, Final version

Date: August 13, 2019

The following comments are sent on behalf of AMTA-WA, a statewide organization representing over 5,000 licensed massage therapists.

AMTA-WA is pleased to state that we are in support of the final version of the proposed ordinance titled, "Massage and Reflexology Businesses," sent to me on August 13, 2019.

In addition, we want to express our profound thanks to you, Jim, for listening to our concerns about earlier versions of the ordinance, and creating workable solutions that we can all support.

Finally, AMTA-WA appreciates the support of the City of Bremerton for legitimate massage and reflexology businesses.

MEMORANDUM

From: Washington Massage Envy Owners Co-Op
by Mark Allen, Mark Allen Government Relations, Contract Lobbyist for the
Washington Massage Envy Owners Co-Op

To: Eric Younger, Bremerton City Council President, and Members
City.Council@ci.bremerton.wa.us
Greg Wheeler, Mayor of the City of Bremerton
Greg.Wheeler@ci.bremerton.wa.us
Roger A. Lubovich, City Attorney for the City of Bremerton
legal@ci.bremerton.wa.us
Jim Burchett, Chief of Police for the City of Bremerton
James.Burchett@ci.bremerton.wa.us

Re: Proposed Ordinance 5373 “Massage Businesses” – “Final Draft”

Date: August 13, 2019

The Washington Massage Envy Owners Co-Op (“Co-Op”) is comprised of the owners of all Massage Envy therapeutic massage practices in the state of Washington.

We thank the City, and particularly Chief Burchett, for continuing to engage stakeholders in a meaningful and substantive manner in order to present to the City Council a proposal that achieves the City’s goal of supporting legitimate massage and reflexology businesses while inhibiting “the ability of an individual or business to engage in the practice of providing unlicensed massage and uncertified reflexology....”

I have reviewed the most recent “Final” version of the proposed Ordinance sent to stakeholders by Chief Burchett this afternoon. The Co-Op supports the adoption of the Ordinance in that form.

Please include this Memorandum in the packet presented to the City Council for its consideration regarding the adoption of proposed Ordinance 5373. Thank you.

Respectfully submitted,
August 13, 2019
WASHINGTON MASSAGE ENVY OWNERS CO-OP
Mark Allen, Contract Lobbyist
E: magovrelations@comcast.net
C: (360) 561-2370