

ORDINANCE NO. 1032

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTER 5.16, ARTICLE I (MESSAGE ESTABLISHMENTS), SECTION 20.215.020 (COMMERCIAL ZONES), SECTION 20.320.030 (OFF-STREET PARKING), SECTION 20.400.190 (MESSAGE ESTABLISHMENTS) AND SECTION 20.620.060 (NONCONFORMING USES) OF THE STANTON MUNICIPAL CODE AND DELETING CHAPTER 5.16, ARTICLE II (MESSAGE TECHNICIANS) FROM THE STANTON MUNICIPAL CODE

WHEREAS, Article 11, Section 7 of the California Constitution authorizes the City of Stanton (“City”) to make and enforce within its limits all ordinances and regulations not in conflict with general laws; and

WHEREAS, in 2008, the Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California; and

WHEREAS, Senate Bill 731 also limited the City’s regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations; and

WHEREAS, the City amended the Stanton Municipal Code (“SMC”) to comply with the regulations set forth in Senate Bill 731; and

WHEREAS, Senate Bill 731 has been widely criticized by local agencies as providing massage businesses with almost unprecedented protection from local zoning and land use authority, and interfering with local law enforcement efforts to close massage businesses that allow prostitution and other illegal activities; and

WHEREAS, prior to the passage of Senate Bill 731, the City contained one licensed massage technician who operated from a doctor’s office. Following the passage of Senate Bill 731, a total of 34 massage establishments located in the City; and

WHEREAS, the increased number of massage establishments that have located in the City have resulted in an increase of police and code enforcement calls for service to many of those massage establishments. Some of those establishments are suspected of allowing sexually explicit activity to take occur on the premises, including prostitution; and

WHEREAS, during City inspections of some existing massage establishments, City inspectors found violations including illegal tenant improvements to create massage rooms, including plumbing for table showers, unauthorized massage technicians and personnel, violations of employment and labor laws, including establishments’ failure to secure worker’s compensation insurance, unsanitary facility conditions, including unwashed sheets and trash, including used contraceptive devices, massage technicians

dressed inappropriately, including the exposure of specified anatomical areas, establishments operating beyond approved hours of operation, persons using the establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, the illicit and illegal activities detailed in the above recitals at massage establishments in the City pose immediate health and safety threats to the establishments, its operators, employees, patrons, surrounding businesses, and the public; and

WHEREAS, Assembly Bill 1147, signed recently by Governor Jerry Brown, was created in response to criticism against Senate Bill 731 and allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments. Assembly Bill 1147 went into effect on January 1, 2015; and

WHEREAS, the City wishes to amend the Stanton Municipal Code to ensure that the City regulates massage establishments in compliance with the provisions of Assembly Bill 1147; and

WHEREAS, the City is also authorized by Government Code Section 51030 *et seq.*, to regulate massage establishments by imposing reasonable standards relative to the skill and experience of massage operators and massage technicians, and reasonable conditions on the operation of the massage establishments; and

WHEREAS, the public peace, health, safety, and welfare require immediate revisions to SMC ordinances relating to massage establishments and massage technicians to ensure that nuisance activities occurring at massage establishments in the City are properly regulated and cease; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed Zoning Code Amendment AZC14-02 at a regular meeting on January 7, 2015, in accordance with SMC section 20.610.030(C), and recommended that the City Council approve Zoning Code Amendment AZC14-02 and approve this Ordinance; and

WHEREAS, the City Council conducted a public hearing on the proposed Zoning Code Amendment AZC 14-02 at a regular meeting on January 13, 2015, in accordance with SMC sections 20.610.030(C) and 20.610.050(A)(1); and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2: Chapter 5.16, Article I. Chapter 5.16, Article 1 of the Stanton Municipal Code is hereby amended and restated in its entirety, as set forth in Exhibit “A” (“Chapter 5.16, Massage Establishments”), attached hereto and incorporated herein.

SECTION 3: Chapter 5.16, Article II. Chapter 5.16, Article II of the Stanton Municipal Code is hereby deleted in its entirety.

SECTION 4: Section 20.215.020. The reference to “Massage Establishments” in Section 20.215.020, Table 2-5 of the Stanton Municipal Code is hereby amended to read as follows:

Land Use	CN	CG	Specific Use Regulations
<i>Service Uses – General</i>			
Massage Establishments	P(1) –	P(1) CUP	MC 5.16; 20.400.190200
Late Hour Operations	CUP	CUP	

Notes:

~~1) A Conditional Use Permit shall be required if not all persons engaged in the practice of massage therapy at the establishment have a valid MTO (Massage Therapy Organization) Certificate or the State law regulating massage establishments terminates under its sunset review provision (Business and Professions Code Section 4600 et seq.).~~

SECTION 5: Section 20.320.030. The reference to “Massage Establishments” in Section 20.320.030, Table 3-6 of the Stanton Municipal Code is hereby amended to read as follows:

Table 3-6 Off-Street Parking Space Requirements	
Description of Use	Required Number of Spaces (1) See Section 20.320.030.B (Calculation Metrics)
<i>Service Uses – General</i>	
Massage Establishments	1 space/200 square feet or as required by Conditional Use Permit (Chapter 20.550)

SECTION 6: Section 20.400.190. Section 20.400.190 of the Stanton Municipal Code is hereby amended and restated in its entirety, as set forth in Exhibit “B” (“Massage Establishments”), attached hereto and incorporated herein.

SECTION 7: Section 20.620.060. Subsection (A)(8) is hereby added to Section 20.620.060 of the Stanton Municipal Code to read as follows:

“8. Massage Establishments. For provisions on nonconforming massage establishments, see Section 20.400.190 (Massage Establishments).”

SECTION 8. The City Council finds that this Ordinance is consistent with the goals, policies and general land uses and programs specified in the General Plan, specifically: Goal CHS 4.3 to “provide and maintain a high level of police protection services necessary to adequately serve the community and provide a sense of safety to residents”; Strategy CHS 3.2.1, “commercial and industrial uses, construction activity and other non-transportation related sources of noise can contribute negatively to the noise environment. Identifying and mitigating these potential noise sources will reduce negative impacts”; Goal CHS 3.2, “develop measures to control non-transportation noise impacts throughout Stanton”; and Strategy LU 1.1.2, “ensure adjacent land uses are compatible with one another.” Regulating massage establishments is meant to minimize nuisance conditions, such as noise impacts, municipal code violations, illicit activities, and decrease law enforcement calls related to those nuisances.

SECTION 9. The City Council further finds that this Ordinance will not be detrimental to the public interest, health, safety, convenience, or welfare of the City. Rather, this Ordinance is recommended to reduce the nuisance issues and decrease the burden on public safety services related to massage establishments. In addition, the City Council finds this Ordinance is internally consistent with other applicable provisions of the Municipal Code. The modifications to the municipal code would replace existing regulations regarding massage establishments in their entirety, which is permitted by State law. This Ordinance is enacted in accordance with the procedures of Stanton Municipal Code Chapter 20.610, and adds regulations to relevant portions of the municipal code, as detailed in this Ordinance No. 1032.

SECTION 10. The City Council further finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

SECTION 11. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 12. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Stanton hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any or more sections, subsections, sentences, clauses and phrases may be declared invalid or unconstitutional.

SECTION 13. This Ordinance shall take effect and be in full force thirty (30) days from and after its passage. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted in the three (3) designated posting places within the City of Stanton within fifteen (15) days after its passage.

PASSED, APPROVED, and ADOPTED this 27th day of January, 2015.

ALEXANDER A. ETHANS, MAYOR

ATTEST:

LUZ A. RODRIGUEZ, INTERIM CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, LUZ A. RODRIGUEZ, Interim City Clerk of the City of Stanton, California, do hereby certify that the foregoing Ordinance No. 1032 was introduced at a regular meeting of the City Council of the City of Stanton, California, held on the 13th day of January, 2015, and was duly adopted at a regular meeting of the City Council held on the 27th day of January, 2015, by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

ABSTAIN: COUNCILMEMBERS: _____

CITY CLERK, CITY OF STANTON