


ATTACHMENT


Planning and Development Board
Staff Report(s)

**CITY OF HOLLYWOOD, FLORIDA
MEMORANDUM
DEPARTMENT OF PLANNING**

DATE: June 12, 2014 **MEMO NO.:** P 14-12

TO: Planning and Development Board/Local Planning Agency

VIA: Jaye M. Epstein, AICP, Director 

VIA: Andria Wingett, Assistant Director 

FROM: Crystal Torres, Planning Administrator

SUBJECT: Modification to proposed Text Amendment to the Zoning and Land Development Regulations to establish distance separation requirements relating to massage establishments.

EXPLANATION:

On May 8, 2014 the Planning and Development Board, acting as the Local Planning Agency considered a Text Amendment to establish distance separation requirements relating to massage establishments. The Board continued this item as several concerns were raised, including the size of hotels which should be exempt, as it relates to smaller hotels specifically on the Beach; the impacts individual massage technicians (self-employed) may have from not being able to locate at a single location; and allowing for Variances to the distance separation requirement.

After discussion with the Community Redevelopment Agency (CRA) regarding the Board's concerns for smaller hotels, Staff is maintaining the proposed threshold of 75 rooms. As indicated by the CRA, small boutique hotels on Hollywood Beach do not have the capacity to—; nor have they historically offered massage services (Attachment II). These services are typical of larger hotels with over 75 rooms such as the Diplomat and the Marriot Hotels. Therefore, Staff finds the proposed threshold appropriate.

In addition, as the intent of the Text Amendment is to ensure no further clustering of massage establishment, Staff is not recommending Variances be permitted to this distance separation requirement, as this is consistent with other uses that require distance separations. Staff has made changes to the Text Amendment regarding individual massage establishment within larger Salon Malls, which provide a variety of appearance care services such as nail, hair, and skin care.

The revised request for the proposed Text Amendment is as follows:

There shall be a 2,500 linear foot distance separation requirement between a massage establishment and another massage establishment.

The following massage establishments and services are exempt from the distance separation requirement:

1. Massage establishments located on the premises of a 75 room or more hotel, licensed health care facility, and licensed health care clinic;
2. Licensed massage therapists operating during a special event which has received required approvals from the City of Hollywood;
3. Accessory use massage establishments, meeting the following criteria:

- a. Customarily associated with the main principal use.
 - b. Utilize up to 25% of the floor area of the principal use.
 - c. Exterior signage is not permitted.
4. Salon Malls of a minimum of 2,500 square feet, meeting the following criteria:
- a. All massage therapists shall have and maintain all applicable state and local licenses active. Prior to leasing suites to individual salon, landlords shall verify suite tenants and salon professionals have and maintain all applicable state and local licenses.
 - b. The number of suites leased to licensed massage therapist shall be limited to a maximum of 25 percent of the overall number of suites.
 - c. A maximum of two licensed massage therapists per suite shall be permitted.
 - d. Certificates of Use shall be required for landlords or business owners operating Salon Malls; and for individual salon suites and licensed professionals.

For the purposes of this regulation, Salon Malls shall be defined as: retail and personal service center comprised of multiple suites controlled by a single landlord or business owner. Suites are individually leased and operated by independently owned professional salons or licensed professionals. Services typically include, but are not limited to, barbering, hair styling, nail care, makeup application, skin care, facials, hair removal, massage, and other cosmetic related services.

ATTACHMENTS:

ATTACHMENT I: Staff Report and Attachments, May 8, 2014
ATTACHMENT II: Superior Small Lodging List, Provided By The CRA


ATTACHMENT I
Staff Report and Attachments,
May 8, 2014

**CITY OF HOLLYWOOD, FLORIDA
MEMORANDUM
DEPARTMENT OF PLANNING**

DATE: May 8, 2014 **FILE:** 14-T-27

TO: Planning and Development Board/Local Planning Agency

VIA: Jaye M. Epstein, AICP, Director

VIA: Andria Wingett, Assistant Director 

FROM: Crystal Torres, Planning Administrator

SUBJECT: The City of Hollywood requests a Text Amendment to the Zoning and Land Development Regulations to establish distance separation requirements relating to massage establishments.

REQUEST:

Text Amendment to the Zoning and Land Development Regulations to establish distance separation requirements relating to massage establishments.

RECOMMENDATION:

Staff recommends the Planning and Development Board, acting as the Local Planning Agency, forward this petition (14-T-27) to the City Commission with a recommendation of approval.

BACKGROUND

Over the last several years Florida has seen an increase in human trafficking. As noted in the 2010 *Statewide Strategic Plan on Human Trafficking* conducted by the Center for Human Rights at Florida State University, Florida is the third most popular American destination for human traffickers. Furthermore, this report listed massage parlors as sites where trafficking occurs. Florida State legislators have acknowledged the relationship between human trafficking and illegal activity taking place at massage establishments creating new regulations designed to curb illegal activity related to massage establishments.

In 2013, the Massage Practice Act, which governs the practice of massage in Florida, was amended by House Bill 7005. Specifically, the Bill creates section 480.0475, F.S., which makes it a first degree misdemeanor for:

- A person to operate a massage establishment between the hours of midnight and 5:00 a.m.; or
- A person operating a massage establishment to use or permit such establishment to be used as a principal domicile unless the establishment is zoned for residential use under local ordinance.

A second or subsequent violation is a third degree felony. The prohibition relating to operating hours does not apply to massage establishments:

- Located on the premises of a health care facility, health care clinic, hotel, motel, bed and breakfast inn, timeshare property, public airport, or a pari-mutuel facility;

- In which every massage performed between midnight and 5:00 a.m. is performed by a massage therapist acting under the prescription of a physician or other specified healthcare personnel; or
- Operating during a special event if the county or city in which the establishment operates approves.

In addition, a massage establishment is prohibited from being used as a principal domicile unless the establishment is also zoned for residential use. A massage establishment licensee or license applicant may also be disciplined or denied a license if the establishment advertises to engage or attempts to engage a patron in unlawful sexual misconduct. Further, this bill amended Section 823.05(3), F.S. in which a massage establishment that operates in violation (Sections 480.0475 or 480.0535(2)), is declared a nuisance and may be abated or enjoined as provided in Sections 60.05 and 60.06, F.S., as a public nuisance.

REQUEST

In an effort to further thwart criminal activity related to massage establishments and eliminate the clustering of criminal activity along major corridors such as Federal Highway, Hollywood Boulevard, and State Road 7, the following distance separation is being proposed for future massage establishments:

There shall be a 2,500 linear foot distance separation requirement between a massage establishment and another massage establishment.

The following massage establishments are exempt from the distance separation requirement:

1. Located on the premises of a 75 room or more hotel, health care facility, health care clinic, public and airport; or
2. Licensed massage therapists operating during a special event which has received required approvals from the City of Hollywood.

The proposed Text Amendment further supports the initiative across the State of Florida to eliminate human trafficking. The increasing amount of evidence documenting human trafficking in the State of Florida has called for action at both the state and local levels. Furthermore, research has documented massage establishments as sites where trafficking occurs. As stated in the Criminal Justice Subcommittee Analysis regarding HB 7005, "while the majority of massage establishments engage in the legitimate practice of massage, some have been recognized as sites where illegal activity, such as human trafficking, occurs." The proposed distance separation requirement minimizes the impact of illegal activity by reducing the concentration of these businesses, especially along major corridors. In addition, the proposed Text Amendment will ensure there continues to be adequate locations for legitimate massage establishments without over saturating the City. As massage establishments have concentrated in certain areas of the City there is still 3 percent of the city or 24 percent of the allowable zoning districts available for massage establishments to locate (Attachment B). In addition, the excluded massage establishments indicated above further ensure the City will be adequately served. As such, similar to other uses which required distance separations, no variances will be allowed.

COMPANION AMENDMENT

In addition to the proposed Text Amendment to the Zoning and Land Development Regulations, a companion amendment to the Code of Ordinances is also being proposed to the City Commission. The companion Text Amendment will at minimum require the following:

1. Each and every massage therapist shall post his/her license in an easily viewable, conspicuous location; and
2. Massage establishments shall indicate number of massage therapists on Certificate of Use application and update Certificate of Use if the maximum number of massage therapist's changes.

Together the proposed regulations discourage criminal activity related to massage establishments and support statewide initiatives to eliminate human trafficking.

CONSISTENCY WITH THE CITY-WIDE MASTER PLAN: The proposed Text Amendment is consistent with the following policies:

City-Wide Master Plan:

Policy CW.44: Foster economic development through creative land use, zoning and development regulations, City services and City policies.

This Text Amendment will encourage opportunities for appropriate economic development by placing distance between massage establishments which will aid in creating a safer environment for City of Hollywood residents.

CONSISTENCY WITH THE COMPREHENSIVE PLAN: The proposed Text Amendment is consistent with the following policies:

Goal: Promote a distribution of land uses that will enhance and improve the residential, business, resort and natural communities while allowing land owners to maximize the use of their property.

Objective 4: Promote improved architectural and streetscape design standards, code enforcement, economic development, neighborhood planning, and public information dissemination to maintain and enhance neighborhoods, business, and tourist areas.

The proposed distance separation is consistent with the City's Comprehensive Plan goal to encourage positive economic development by minimizing the impact of illegal activity while maintaining adequate sites for legitimate massage establishments. In addition, the Text Amendment supports crime reduction initiatives being implemented by the Police Department along major corridors, such as Federal Highway. Reinforcing such initiatives promotes community safety and enhancement of neighborhoods within the City of Hollywood.

APPLICABLE CRITERIA

Analysis of Criteria and Findings for Text Amendments as stated in the City of Hollywood Zoning and Land Development Regulations Article 5.

CRITERIA 1: The proposed change is consistent with and in furtherance of the goals, objectives and policies of the adopted Comprehensive Plan as amended from time to time.

ANALYSIS: The goals and objectives of the Comprehensive Plan work to ensure the health, safety, and welfare of the community is maintained. The proposed Text Amendment serves these goals by creating another mechanism to curb illegal activity relating to massage establishments. As stated in the 2010 Statewide Strategic Plan on Human Trafficking Florida is the third most popular state for human trafficking. In order to further deter this type of activity a 2,500 linear foot distance separation is being proposed. The proposed distance minimizes the impact of illegal activity by reducing the concentration of these businesses, especially along major corridors. The proposed Text Amendment will ensure there continues to be adequate locations for legitimate massage establishments without over saturating the City.

FINDING: Consistent

CRITERIA 2: That conditions have substantially changed from the date the present zoning regulations were established.

ANALYSIS: Undoubtedly, massage establishments have significantly changed over time. As stated previously, there is an increasing amount of evidence documenting the relationship between human trafficking and massage establishments. Research documenting Florida as the third most popular American destination for human trafficking along with studies listing massage establishments as sites where trafficking occurs further support the changing dynamics of massage establishments, specifically in the State of Florida. Such change has resulted in the creation of House Bill 7005, which amended the Massage Practice Act in an effort to curb illegal activity in massage establishments. The proposed Text Amendment further supports the initiative across the State of Florida to eliminate human trafficking. The distance separation will provide adequate locations for massage establishments while minimizing the concentrations of such uses, especially along major corridors such as Federal Highway, State Road 7, Hollywood Boulevard, and Sheridan Street.

FINDING: Consistent

RECOMMENDATION

Staff finds the proposed Text Amendment consistent with the Criteria set forth by the Zoning and Land Development Regulations as well as the City-Wide Master Plan. Staff recommends the Planning and Development Board, acting as the Local Planning Agency, forward this item to the City Commission with a recommendation of *approval*.

ATTACHMENTS

ATTACHMENT A: Maps
ATTACHMENT B: Memo on HB 7005

ATTACHMENT A

Maps

Location of Massage Establishments

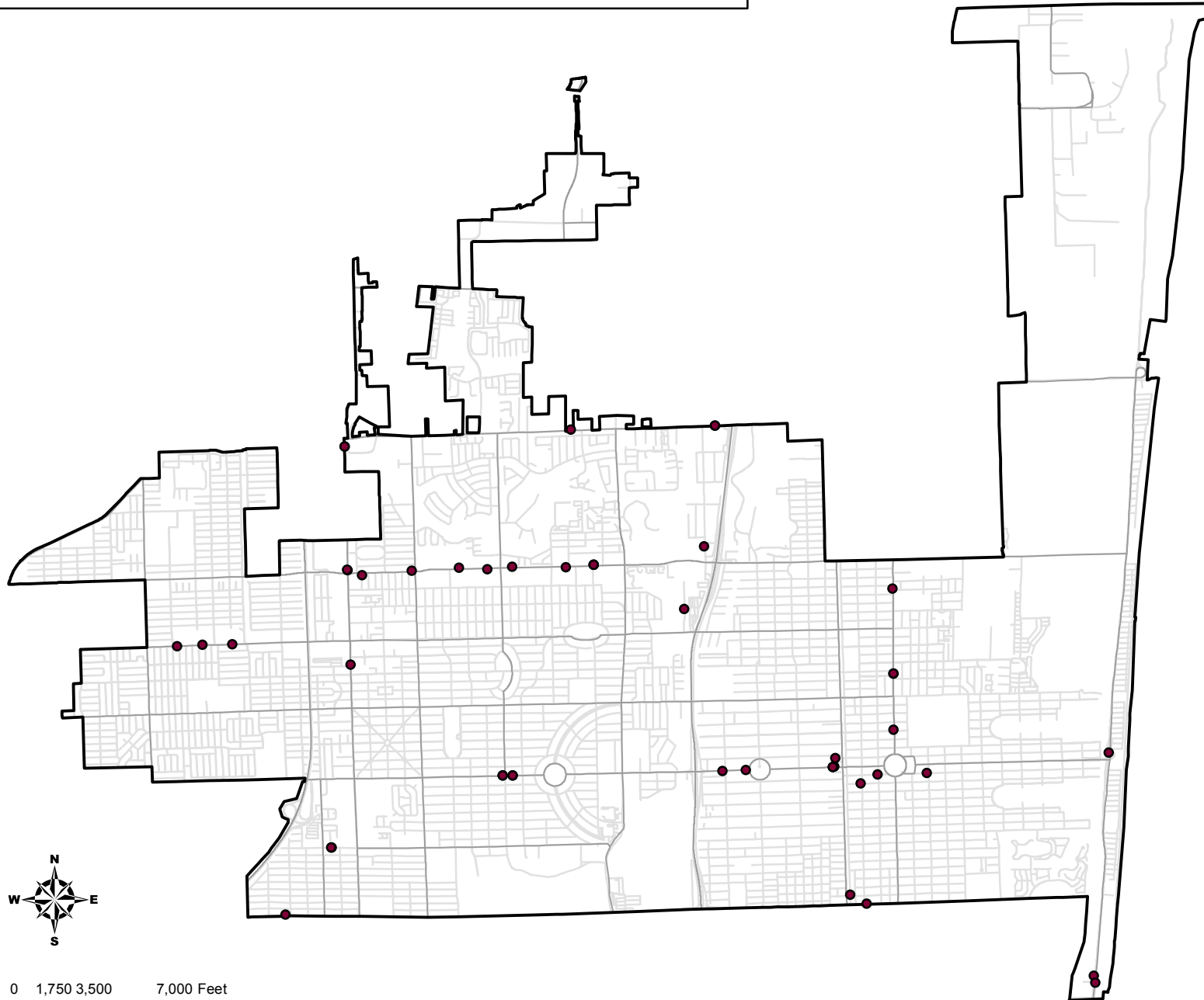
Total City Acreage: Approx. 18,730 Acres
Number of Massage Parlors: est. 52



**PLANNING AND
DEVELOPMENT SERVICES**

Legend

- Massage Establishments (52)
- City Boundary
- Major Roads
- Streets



Available Zoning Districts for Massage Establishments



PLANNING AND DEVELOPMENT SERVICES

Total City Acreage: Approx. 18,730 Acres
Available Locations: Approx. 2,647 Acres
Existing Percent of City Available : 14%

Legend

- Massage Establishments (52)
- Available Zoning Districts
- City Boundary
- Major Roads
- Streets

Available Zoning Districts

- BRT-25
- BRT-25-A1A-C
- BRT-25-C
- BWK-25-HD-C
- C-1
- C-2
- C-3
- C-4
- C-5
- CCC-1
- CCC-2
- CN-2
- CN-3
- HD
- IM-1
- IM-2
- IM-3
- ND-1
- ND-2
- O-1
- O-2
- O-3
- OM
- PD
- SR7 CCD-CC
- SR7 CCD-LHC
- SR7 CCD-LHSC
- SR7 CCD-MHC
- SR7 CCD-RC
- YC-B39
- YC-B40
- YC-B42
- YC-B55
- YC-B57
- YC-B58



0 1,750 3,500 7,000 Feet

Available Zoning Districts for Massage Establishments



Total City Acreage: Approx. 18,730 Acres
 Available Locations with 2500 ft Distance Separation: Approx. Acres 647 Acres
 Proposed Percent of City Available : 3%
 Proposed Percent of Allowable Zoning District Available: 24%

PLANNING AND DEVELOPMENT SERVICES Legend

- Massage Establishments (52)
- 2500 ft buffer
- Available Zoning Districts
- City Boundary
- Major Roads
- Streets

Available Zoning Districts

- BRT-25
- BRT-25-A1A-C
- BRT-25-C
- BWK-25-HD-C
- C-1
- C-2
- C-3
- C-4
- C-5
- CCC-1
- CCC-2
- CN-2
- CN-3
- HD
- IM-1
- IM-2
- IM-3
- ND-1
- ND-2
- O-1
- O-2
- O-3
- OM
- PD
- SR7 CCD-CC
- SR7 CCD-LHC
- SR7 CCD-LHSC
- SR7 CCD-MHC
- SR7 CCD-RC
- YC-B39
- YC-B40
- YC-B42
- YC-B55
- YC-B57
- YC-B58



0 1,750 3,500 7,000 Feet


ATTACHMENT B

Memo on HB 7005

**CITY OF HOLLYWOOD
INTEROFFICE MEMORANDUM
CITY ATTORNEY'S OFFICE**

TO: Frank Fernandez
Police Chief

DATE: February 24, 2014

FROM: Debra-Ann Reese 
Sr. Asst. City Attorney

VIA: Jeffrey P. Sheffel 
City Attorney

SUBJECT: Massage Establishments - HB 7005

Recently, the Florida Legislature passed and adopted HB 7005 (Chapter 2013-212) relating to the regulation of massage parlors. This new law was effective as of October 1, 2013.

Pursuant to the this bill, Section 480.0475, F.S. was created which prohibits massage establishments from operating between the hours of midnight and 5:00 a.m., unless the massage establishment is located on the premises of a health care clinic, hotel, motel, bed and breakfast, timeshare property, public airport, or pari-mutuel facility as defined by Florida Statutes. The prohibition does not apply to a massage performed by a massage therapist actin under the prescription of a licensed physician. The new law also provides for an exemption for operating during a special event if approved by the county or municipality in which the establishment operates. A massage establishment is prohibited from being used as a principal domicile unless the establishment is also zoned for residential use. A massage establishment licensee or license applicant may also be disciplined or denied a license if the establishment advertises to engage or attempts to engage a patron in unlawful sexual misconduct. Further, this bill amended Section 823.05(3), F.S. in which a massage establishment that operates in violation of Sections 480.0475 or 480.0535(2), is declared a nuisance and may be abated or enjoined as provided in Sections 60.05 and 60.06, F.S., as a public nuisance.

A person who violates the provisions of Section 480.475, F.S. commits a misdemeanor of the 1st degree, punishable under Sections 774.082, or 774.083, F.S. Subsequent violations are punishable as a felony of 3rd degree.

Please note, that Chapter 119, Hollywood Code of Ordinances which regulates Massage Parlors currently does not regulate the hours of operation and has not been updated since 1989. Section 480.052, F.S. allows a City "to regulate persons and establishments

licensed under this chapter. Such regulation shall not exceed the powers of the state under this act or be inconsistent with this act. This section shall not be construed to prohibit a municipality....from enacting any regulation of persons or establishments not licensed pursuant to this act.

Further, the City does not regulate massage establishments which are licensed under State law. Article 11 of the Zoning and Land Development Regulations regulates Commercial Physical Contact Parlors, however there is an exception for those licensed under Section 480, F.S.

The above state law regulations can be enforced through the issuance of a notice to appear, or we can amend the City's Code to be consistent with state law whereby the City can avail itself of various mechanisms to enforce the regulations.

RECOMMENDATION: None. Please advise if you would like to pursue a code amendment or will proceed under the state law guidelines.

cc: Cathy Swanson-Rivenbark, City Manager

ATTACHMENT II
Superior Small Lodging List,
Provided By The CRA

Superior Small Lodgings within the CRA Districts	Rooms	#	Massage services		Full Time	Part Time	On Call
			YES	NO			
Angelfish Inn 954-921-1099 11 I •• 342 Buchanan St., Hollywood, 33019 www.angelfishinn.com	11	1		unavailable			
Atlantic Sands Beach Suites 866-391-2331 310-318 Hayes	7	1		X			
Bougainvillea on the Beach 954-925-1368 11 H •••• 2813 N. Surf Road, Hollywood, 33019 www.bougainvilleahollywood.com	11	1		X			
Caribbean Resort 954-922-3761 15 H ••• 313 Hayes St., Hollywood, 33019 www.mycaribbeanresort.com	15	1		X			
Caroline 954-839-0744 H ••• 1515 N Ocean Drive, Hollywood, 33019 www.thehollywoodbeachhotel.com	15	1		X			
Charter House 954-839-0744 H ••• 321 Minnesota St, Hollywood, 33019 www.thehollywoodbeachhotel.com	10	1		X			
Coral House 954-922-9411 14 I ••• 324 Indiana St., Hollywood, 33019 www.hollywoodbeachcoralhouse.com	14	1		X			
Dolphin 954-251-2011 ••• 315-319 McKinley St, Hollywood, 33019 www.dolphinhollywood.com	10	1		unavailable			
Enchanted Isles Resort 954-922-1508 ••• 1601 S. Surf Road, Hollywood, 33019 www.eiresort.com	37	1		X			
Grenier's on the Beach 800-922-3157 6 I ••• 326 Nebraska St., Hollywood, 33019 www.greniersonthebeach.com	6	1		unavailable			
Hollywood Beach Golf Resort 888-895-6695 30 H •• 1650 Johnson St., Hollywood, 33019 www.hollywoodbeachgolf.com	30	1	n/a	n/a	n/a	n/a	n/a
Hollywood Beach Suites Hostel & Hotel 954-391-9448 24 H ••• 334 Arizona St., Hollywood, 33019 www.hollywoodbeachhostel.com	24	1		X			

Superior Small Lodgings within the CRA Districts	Rooms	#	Message services	Full Time	Part Time	On Call
			YES	NO		
Hollywood Sands Resort 954-925-2285 25 H ••••	25	1		X		
2404 N. Surf Rd., Hollywood, 33019 www.8664myvacation.com						
Manta Ray Inn 800-255-0595 12 I ••••	12	1		X		
1715. S. Surf Rd., Hollywood, 33019 www.mantarayinn.com						
Marine Villas 877-923-1925 8 I ••	8	1		X		
810 S. Surf Rd., Hollywood, 33019 www.marinevillas.com						
Nevada Beach Apartments 954-923-1682 ••	15	1		X		
322 Nevada St., Hollywood, 33019 www.nevadabeachapts.com						
Neptune Hollywood Beach Club 954-922-0459 29 H ••••	29	1		X		
310 McKinley St., Hollywood, 33019 www.neptunebeachclub.com						
Ocean Drive Villas 888-224-8532 21 I ••	21	1		X		
1701 N. Ocean Dr., Hollywood, 33019 www.oceandrivevilla.com						
Ocean Inn (Gay Friendly) 888-794-8083 11 I •••	11	1		X		
3405 N. Ocean Dr., Hollywood, 33019 www.YourBeachInn.com						
Riptide Oceanfront Hotel 877-815-4833 12 H ••	12	1		X		
2300 N. Surf Rd., Hollywood, 33019 www.riptidehotel.com						
Sea Downs 954-923-4968 12 H ••••	12	1		X		
2900 N. Surf Rd., Hollywood, 33019 www.seadowns.com						
Shell Motel on the Beach 800-547-0044 7 H •	7	1		unavailable		
326 Minnesota St. Hollywood, 33019 www.shellmotelhollywood.com						
Surf Terrace Apartments 954-922-2384 •	8	1		X		
2307 N. Surf Rd. Hollywood, 33019						
Tide Vacation Apartments 954-923-3864 21 H ••••	21	1		X		
2800 N. Surf Rd., Hollywood, 33019 www.tidevacation.com						

Superior Small Lodgings within the CRA Districts	Rooms	#	Massage services		Full Time	Part Time	On Call
			YES	NO			
Villa Europa Hotel 954-924-9430 18 H ••	18	1		X			
314 Cleveland St., Hollywood, 33019 www.villaeuropahotel.com							
Walk About Beach Resort 954-272-6000 8 H •••	8	1		X			
2500 N. Surf Rd., Hollywood, 33019 www.walkaboutbeachresort.com							
	397	26					
Total SSLCRA Beach District rooms/units	367	25					
Total SSLCRA Downtown District rooms/units	30	1					