

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER URBAN
COUNCIL BILL NO. 15
ORDINANCE NO. 1696
Series 2020

TITLE: AN ORDINANCE, REPEALING CHAPTER 16, ARTICLE X “MASSAGE PARLORS” AND REENACTING REGULATION OF MASSAGE BUSINESSES BY AMENDING CHAPTER 11, “LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS”, BY THE ADDITION OF A NEW ARTICLE X, ENTITLED “MASSAGE BUSINESSES” AND MAKING CONFORMING AMENDMENTS TO CHAPTER 2, ARTICLE V “ADMINISTRATIVE ENFORCEMENT” AND CHAPTER 26 “ZONING AND DEVELOPMENT”

WHEREAS, the City of Wheat Ridge, Colorado, (the "City"), is a home rule municipality, organized and existing under and by virtue of Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, Section 12-235-101 *et seq.*, C.R.S., known as the “Massage Therapy Practice Act” (“the Act”) regulates the profession of massage therapy to provide for a consistent statewide certification and oversight of massage therapy professionals; and

WHEREAS, the Act does not prevent the City from regulating the massage therapy business and the City Council finds that the purpose and intent of this Act was to regulate and protect legitimate massage therapy businesses by requiring persons performing massage therapy to be licensed by the state’s Department of Regulatory Affairs, in order to safeguard and promote the public health, safety and welfare of the citizens of the state; and

WHEREAS, the City Council recognizes that massage is a legitimate health care professional activity that provides benefits to the residents of the City; and

WHEREAS, the reputation and success of legitimate massage therapy businesses is denigrated and undermined by businesses and individuals who mask their unlawful sexual activities and human trafficking by falsely posing as legitimate massage therapy businesses; and

WHEREAS, the City Council finds that the licensing exclusions provided herein to certain businesses are reasonable as they are either currently subject to licensing and regulation by the State of Colorado or they pose a very low risk of engaging in unlawful sexual or human trafficking activities; and

WHEREAS, there are currently no massage parlors in the City that will be adversely affected by the repeal of the provisions of Chapter 16, Article X of the City Code (the "Code").

NOW THEREFORE BE IT ORDAINED by the City Council of the City Of Wheat Ridge, Colorado that:

Section 1. Chapter 16, Article X of the Wheat Ridge Code of Laws is hereby repealed.

Section 2. Chapter 11 of the Wheat Ridge Code of Laws is hereby amended by the addition of a new Article X, entitled **Massage Businesses**, as follows:

ARTICLE X. – MASSAGE BUSINESSES

Section 11-230. – Purpose.

The purpose of this article is to promote the public health, safety and welfare of the public, including but not limited to its citizens and residents, by regulating and licensing massage businesses.

Section 11-231. – Authority.

This article is adopted under the authority conferred by §31-15-401(1)(b), C.R.S. to make all regulations necessary or expedient for the promotion of health or suppression of disease and by §31-15-501(1)(c), C.R.S. to license and regulate businesses, and the home-rule authority conferred by Article XX, Section 6 of the Colorado Constitution, .

Section 11-232. – Definitions.

Except as otherwise indicated by the context, the following words, terms and phrases, shall have the following meanings for purposed of this division:

Agent means an individual designated by a publicly held corporation to act on behalf of the corporation under this article. An agent shall be a bona fide resident of Colorado, a citizen or legal resident of the United States, or otherwise authorized to work in the United States.

Applicant means an individual acting on behalf of a massage business to apply for a license.

Client means an individual who enters into an agreement for massage therapy for a fee, income, or compensation of any kind within the city.

Control means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way.

Controlling Person means a person directly or indirectly possessing control of an applicant or licensee.

Employee means any person who performs any service at a massage business on a full-time, part-time, or contract basis, whether or not the person is designated an employee, independent contractor or otherwise. Employee does not include a person exclusively engaged in the repair or maintenance of the massage business, or for the delivery of goods to the licensee.

Inspector means any person authorized by the City Manager to enforce the provisions of this Article.

Licensee means the person or entity to whom a massage business license is issued, by the city.

Manager means an on-site natural person or persons authorized by the licensee to exercise overall operational control of the business, to supervise employees, or to fulfill any of the functions required of a manager by this article.

Massage Business means any place of business where any massage or massage therapy is practiced or administered. The term "massage business" shall not include:

- (a) Training rooms of public and private schools accredited by the state board of education or approved by the state division charged with the responsibility of approving private occupational schools.
- (b) Training rooms of recognized professional or amateur athletic teams.
- (c) Offices, clinics, and other facilities at which medical professionals licensed by the state of Colorado, or any other state, provide massage services to the public in the ordinary course of their medical profession.
- (d) Medical facilities licensed by the state, including but not limited to hospitals, clinics, nursing and convalescent homes and other similar institutions.
- (e) Chiropractors licensed by the state and their facilities.
- (f) Barber shops, beauty salons, and other facilities at which barbers and cosmetologists licensed by the state provide massage services to the public in the ordinary course of their professions.
- (g) Bona fide athletic clubs not engaged in the practice of providing massage services to their members or to the public for remuneration; for purposes of this definition, if an athletic club does not receive more than 10 percent of its gross income providing massages to its members, or to the public, such shall be prima facie evidence of its status as a bona fide athletic club.
- (h) A place of business where an individual offers to perform or performs massage therapy:
 - (1) For not more than 72 hours in any six-month period and
 - (2) As part of a public or charity event, the primary purpose of which is not to provide massage therapy.
- (i) A place of business where a state-licensed massage therapist practices as a solo practitioner, and complies with all required acts and limitations of operation of this section and;
 - (1) Does not use a business name or assumed name; or

- (2) Uses a business name or an assumed name and provides the massage therapist's full legal name, or license number in each advertisement, and each time the business name or assumed name appears in writing; and
 - (3) Does not maintain or operate a table shower as defined in this section.
- (j) A place of business which limits its business to offering the following practices performed by persons who:
- (1) Do not claim expressly or implicitly to be massage therapists; and
 - (2) Limit their work to one or more of the following practices:
 - a. Use touch, words and directed movement to deepen awareness of existing patterns of movement and suggest new possibilities of movement. Such practices include, but are not limited to the Feldenkrais method of somatic education, the "Rolf Institute's Rolf Movement Integration", the Trager approach to movement education, body-mind centering and ortho-bionomy; or use minimal touch over specific points on the body to facilitate balance in the nervous system. Such practices include, but are not limited to Bowenwork; or
 - b. Use touch to affect the energy systems, acupoints or qi meridians (channels of energy) of the human body. Such practices include, but are not limited to acupressure, Asian bodywork therapy, biodynamic craniosacral therapy", jin shin do body-mind acupressure, polarity, polarity therapy, and polarity therapy bodywork, qigong, reiki, shiatsu, and tuina; or
 - c. Use touch to effect change in the structure of the body while engaged in the practice of structural integration. Such practices include, but are not limited to, practitioners of Rolfing structural integration, the Rolf method of structural integration, and Hellerwork; or
 - d. Apply pressure to reflex points on the feet, hands and ears to bring the body into balance, thereby promoting the wellbeing of clients. Such practices include, but are not limited to reflexology; and
 - (3) If any of the practices listed in (2) above have nationally recognized certification available in their particular practice industry, the practitioners shall hold current active certification or recognition by a professional organization or credentialing agency in their respective industry that:
 - a. Requires a minimum level of training specific to the discipline, demonstration of competence, and adherence to an approved scope of practice and ethical standards; and

- b. Maintains disciplinary procedures to ensure adherence to the requirements of the organization or agency; and
- c. Provide consumers with contact information for the organization or agency in the practitioner's place of business.

Massage or Massage Therapy means a system of structured touch, palpation, or movement of the soft tissue of another person's body in order to enhance or restore the general health and well-being of the recipient. Such system includes, but is not limited to, techniques such as effleurage, commonly called stroking or gliding; petrissage, commonly called kneading; tapotement or percussion; friction; vibration; compression; passive and active stretching within the normal anatomical range of movement; hydro massage; and thermal massage. Such techniques may be applied with or without the aid of lubricants, salt or herbal preparations, water, heat, or a massage device that mimics or enhances the actions possible by human hands.

Massage Therapist is an individual that has fulfilled the requirements for state licensure under Section 12-235-101 *et seq.*, C.R.S., and has a valid massage therapist license issued by the state of Colorado to engage in the practice of massage therapy.

Mobile Massage Unit means a vehicle or other movable enclosure specifically equipped for a massage therapist to provide massage therapy inside the vehicle or enclosure.

Sexual Act means sexual contact, sexual intrusion, or sexual penetration as defined in Section 18-3-401, C.R.S.

Spa Establishment means a commercial massage business that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak.

Table Shower or Vichy Shower means an apparatus for the bathing or massaging of a person on a table or in a tub.

Section 11-233. Licenses generally; minimum requirements.

The licenses required by this article are in addition to any other applicable licenses or permits required by the city, county or state. Massage facilities licensed under this article shall comply with all other applicable city ordinances and laws, including the city zoning ordinances.

Section 11-234. Licenses required.

- (a) No person or entity shall be permitted to operate a massage business in the city without a valid massage business license in addition to the business license required by Chapter 11, Article II. Additionally, no person or entity shall be permitted to operate such massage business without a licensed manager on site at all times, except as provided in (c) below. A massage business may obtain manager's licenses for more than one individual.

- (b) No person shall be permitted to work as a manager of a massage business without a valid massage business manager's license.
- (c) An individual massage therapist operating a massage business as a solo practitioner, but who is not exempt from licensure under Section 11-232. Definition of *Massage Business* (i), is not required to obtain a massage business manager's license.

Section 11-235. Application.

- (a) In addition to the requirements of this Chapter and Chapter 11, Article II, each application for a massage business license shall contain the following information:
 - (1) If the applicant is an individual; satisfactory proof that he or she is 18 years of age or older.
 - (2) If the applicant is a legal entity; satisfactory proof that each of the individual officers, directors, managers, partners, members, principal owners, and/or anyone with 10 percent or more financial interest of such entity are 18 years or older.
 - (3) Whether the applicant, or any of the other individuals required to be listed in the application, have been convicted of, or plead "nolo contendere" to, a felony or misdemeanor, in any federal, state or municipal court in any of the United States jurisdictions or possessions, for prostitution, solicitation of prostitution, fraud, theft, embezzlement, money laundering or similar crimes. Failure to disclose any criminal conviction may result in denial of the license application.
 - (4) Whether the applicant, or any of the other individuals required to be listed in the application, has had a previous license under this or any other similar massage business ordinance from another jurisdiction or possession of the United States, denied, suspended, or revoked, and, if so, the name and location of the massage business for which such license was denied, suspended, or revoked, as well as the date of such denial, suspension, or revocation.
 - (5) Whether the applicant, or any of the other individuals required to be listed in the application, has been an officer, director, manager, partner, member, and/or principal owner of any legal entity which currently or previously operates or operated a massage business or business meeting the definition of massage business in this article and the name, dates of operation and location of such business or businesses.
 - (6) Satisfactory proof of the applicant's ownership or right to possession of the premises wherein the massage business will be operated. The applicant shall have a continuing

obligation to provide, where applicable, subsequent evidence of the right to possession of the premises.

- (b) The applicant for a massage business manager's license shall submit an application for a manager's license on a form prescribed by the city treasurer and filed at the offices of the city treasurer, which shall contain the following information:
 - (1) If the applicant is an individual; satisfactory proof that he or she is 18 years of age or older.
 - (2) The applicant's name, address, date of birth, and telephone number. If the applicant is a licensed massage therapist, the state massage therapy license number.
 - (3) Whether the applicant or any of the other individuals required to be listed in the application meet the requirements specified in paragraph (a) above and, if the applicant or any other person listed in the application have been involved in a criminal act as described in paragraph(a) above, the date and place of conviction, and the disposition.
 - (4) Any disciplinary actions taken by any state or local massage therapy board or criminal convictions for violations of a massage therapy practice act in any jurisdiction or possession of the United States, and the result of such disciplinary actions, whether the applicant is a licensed massage therapist or not.

Section 11-236. Review by other departments.

- (a) Prior to the issuance of any massage business license or a massage business manager's license, the corresponding application shall be submitted to the Police Department for review and comment. The Police Department shall provide any relevant and available information as to whether the applicant and each of the individuals required to be listed in the corresponding license application meet the requirements in section 11-235. Such review shall be completed within 20 days after the license application is submitted.
- (b) The Police Department shall only be required to provide the information specified in subsection (a) of this section and shall not be authorized to approve or disapprove any license application.

Section 11-237. Issuance; denial.

- (a) If after an investigation, the city treasurer finds, in addition to any findings required by section 11-25, that the individual applicant and each of the individuals required to be listed in the massage business license application meet the requirements in subsection 11-235(a) and:

- (1) Are 18 years of age or older; and
- (2) Shall not; (a) have voluntarily surrendered any license to practice as a massage therapist or operate a massage business as a result of, or while, under civil or criminal investigation; or (b) have had a license to practice as a massage therapist or operate a massage business or similar license, denied or revoked by the State of Colorado or a political subdivision of Colorado, or a regulatory board in another United States jurisdiction or possession, for an act that occurred in that jurisdiction or possession that would be a violation under this article; and
- (3) Shall not be a registered sex offender or required by law to register as a sex offender; and
- (4) Shall not have any prior conviction for an offense involving sexual misconduct with a child, including sexual abuse, sexual assault, sexual conduct, sexual molestation and sexual exploitation; and
- (5) Subject to the requirements of Section 24-5-101, C.R.S., shall not have any prior convictions or pending violations for any crimes, including but not limited to prostitution, or of operating a prostitution enterprise, theft, embezzlement, or money laundering; and
- (6) The location where the license is applied for has not had a similar license revoked or surrendered for cause within the last 24 months; and
- (7) The character, record, or reputation of the applicant, his or her agent, or his or her principal does not indicate that potential violations of this chapter are likely to occur if a license is issued to the applicant.

Then he or she shall, within 30 days following receipt of the, license application, approve the issuance of massage business license to the applicant for use at the location identified in the license application as the situs of the business. In the event of a denial the treasurer shall explain with reasonable details in writing the reason for the denial and the applicant's rights to a hearing under section 11-32.

- (b) If, after investigation, the treasurer finds, in addition to the findings required by section 11-25(a), that:
 - (1) The applicant for a massage business manager's license meets all the requirements of subsection 11-235(b); and
 - (2) If the applicant will be performing massage or massage therapy, the applicant has completed all requirements of section 12-235-101 *et seq.*, C.R.S, and holds a valid state massage therapist license.

Then he or she shall, within 30 days following receipt of the license application, issue a manager's license to the applicant.

- (c) Upon the sale or transfer of any interest in a massage business, the license issued pursuant to this article shall be null and void, and a new application shall be required.

Section 11-238. Temporary license.

- (a) The treasurer may issue a temporary massage business license upon receipt of a complete massage business license application involving the sale or change in ownership of a business. Such license shall be issued for 30 days and renewed every 30 days until approval or denial of the massage business license.
- (b) The treasurer may issue a temporary massage business manager license upon receipt of a complete massage manager license application upon sale, change of ownership, or change of manager of an existing licensed massage business. Such license shall be issued for 30 days and may be renewed for good cause for additional 30-day periods at the discretion of the treasurer.

Section 11-239. Limitations on operation.

It shall be unlawful for any person or entity in the business of operating a massage business or any manager or employee thereof:

- (a) To operate a massage business without a valid massage business license or with a license that has been suspended, revoked, or expired.
- (b) To employ any person to act as a manager at a massage business who is not licensed as a manager or a licensed owner.
- (c) To be open for business for the practice of massage therapy without a massage therapist on the premises that has been licensed in accordance with section 12-235-101, *et seq.*, C.R.S..
- (d) To operate or maintain a table shower or Vichy shower on the premises unless permission to operate a table shower was approved as part of its massage business license.
- (e) To permit a licensed massage business to be used for housing, sheltering, or harboring any person(s), or as living or sleeping quarters for any person(s). The owner and family members of a massage business operated as a home occupation, as defined by this Code, are exempt from this prohibition.
- (f) To massage any other person, or give or administer any bath or baths, including table showers or Vichy showers, in a manner intended to arouse, appeal to, or gratify the lust or passions, or sexual desires of such other person. In no case shall the employee intentionally touch either the male or female genitalia of the client.

- (g) To allow any employee to provide massage therapy or other massage services without being fully clothed. For purposes of this subsection, employee clothing shall be of a fully opaque, nontransparent material that shall not expose the employee's genitals, pubic region, buttocks, or breasts below a point one inch above the top of the areola, or substantially expose the employee's undergarments.
- (h) To require client nudity as part of any massage service without the client's prior consent.
- (i) To use or possess adult-oriented merchandise, including sex toys, sexual aids, vaginal or anal lubricant, or any contraceptive item, in any part of a massage business.
- (j) To permit any individual, including a client, student, contractor, or employee, to engage in any sexual act in the massage business.
- (k) To fail to immediately report to the Wheat Ridge Police Department any disorderly conduct, sexual acts, or other criminal activity occurring on or within the licensed premises.
- (l) To make an agreement, or to permit any individual to make an agreement with an employee, to engage in sexual activity in any other location, in violation of Section 16-201 or 16-202.
- (m) To conceal persons in the business or to elude city inspectors, by exiting side or back doors or remaining behind locked doors during an inspection.
- (n) To refuse to provide identification to city inspectors or law enforcement,
- (o) To perform or permit anyone to perform massage without a valid massage therapists license issued under section 12-235-101, *et seq.*, C.R.S..
- (p) To perform or permit anyone to perform massage on a patron under the age of eighteen (18) years, unless such patron is accompanied by his or her parent or legal guardian, has a physician's prescription for such massage services, or has a letter from his or her parent or legal guardian authorizing such services.
- (q) To operate the business between the hours of 9:00 p.m. and 6:00 a.m..

Section 11-240. Required Acts.

- (a) Every licensed massage business is required to:
 - (1) Maintain a current and up-to-date list of employees and contractors on site including start dates of employment or contracted service, full legal name, date of birth, home address

and telephone number, employment position, date first began employment or service, and the date when services were terminated if applicable.

- (2) Maintain a copy of each massage therapist's Colorado license for each employee and contractor performing massages.
- (3) Maintain a complete set of records to include a log of all massage or massage therapy administered at the business. The log shall contain the following information: date, time and type of each massage therapy administered, and name of the employee administering the massage therapy. The log shall be retained for a minimum of one year following any massage therapy. The massage therapy log shall be subject to inspection upon request by the inspector, during normal business hours in compliance with applicable law.
- (4) Operate under or conduct business under only the designation specified in the license.
- (5) List the address of the business in any advertisement.
- (6) Ensure that massage facilities interior and exterior doors remain unlocked while the massage business is open. The exception to this requirement is as follows: The exterior doors may remain locked if (i) the massage business is operated as a home occupation or (ii) during the time period when only one employee is present in the business.
- (7) Display at all times in a prominent place on the licensed premises a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches with each letter a minimum of one-half ($\frac{1}{2}$) inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS THE MINOR IS AUTHORIZED OR ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

FINES OR IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS UNDER THE WHEAT RIDGE CODE OF LAWS.

- (b) All employees, contractors, and other individuals, excluding clients, present in the massage business must have valid government identification in one of the following forms and must immediately

present such identification upon request of an inspector or law enforcement personnel:

- (1) An operator's, chauffeur's or similar type of driver's license issued by any state, any U.S. Territory, or any foreign country including Canada and Mexico; or
 - (2) An identification card issued by any state for the purpose of proof of age as in accordance with section 42-2-302 and 42-2-303 C.R.S.; or
 - (3) A military identification card; or
 - (4) A passport; or
 - (5) An alien registration card; or
 - (6) A valid employment authorization document issued by the U.S. Department of Homeland Security; or
 - (7) A valid consular identification card from any foreign country.
- (d) Massage therapists shall remain fully clothed, as described in section 11-239(g), while administering massage or otherwise visible to clients on business premises, including premises designated by the client through an outcall massage service.

Section 11-241. Inspections.

- (a) No owner, manager, massage therapist, or employee shall fail to immediately grant full massage business access any time such establishment is occupied or open or business, to a licensing administrator, authorized inspector, law enforcement officer, or any other person authorized or required by law to inspect the massage business.
- (b) All rooms, cabinets, storage areas shall be subject to inspection and any locked rooms, cabinets or storage areas shall be promptly opened for inspection.
- (c) No owner, manager, massage therapist, or employee shall fail to immediately grant access to the log of all massage therapy administered at the business, as required in Section 11-240(a)(3), to a licensing administrator, authorized inspector, law enforcement officer, or any other person authorized or required by law to inspect the massage business, without unreasonable delay.
- (d) Inspectors may request to review the massage therapist license issued by the State at any time during an inspection for the massage therapists, managers, or massage therapist employed as contractors.

- (e) All owners, managers, massage therapists, employees, contractors or persons occupying the business, other than clients, shall present identification and shall not elude identification.

Section 11-242. Table or Vichy showers.

- (a) In order to operate or maintain a table or Vichy shower on or about the licensed premises, such device must be specifically allowed as a permitted device on the massage business license.
- (b) The treasurer may approve the use of a table or Vichy shower in the license if the following conditions are met:
 - (1) The shower is commercial and professional in nature, manufactured with industrial grade materials, and is designed solely for the purpose of massage utilizing multiple overhead spray nozzles. Massage bathtubs and tables with accessory sprayers shall not qualify; and
 - (2) The business practices appropriate draping of a shower client, to include draping of the buttocks and genitalia of all clients, unless the client gives specific written consent to be undraped.
- (c) If the treasurer has reason to believe that there is a failure to comply with the conditions in subsection (b) of this section, the treasurer shall provide licensee with written notice that permission to operate a table or Vichy shower as part of its license is terminated and the business shall not be allowed to operate such shower.
- (d) The licensee may appeal the termination or denial of shower use in accordance with section 11-32.

Section 11-243. Enforcement processes for revocation or suspension of licenses.

- (a) Administrative suspension or revocation. In addition to any reason set forth in sections 11-30 and 11-31, and notwithstanding any provision of this Chapter to the contrary, the city treasurer or the treasurer's designee may suspend or revoke a massage business license or a massage business manager's license, under the provisions of Article V of Chapter 2, if he or she finds that:
 - (1) The licensee has committed a violation of any section of this Article X; or
 - (2) Any employee or contractor required by this Article to possess a valid massage therapist license obtained their license through fraud, deceit or misrepresentation, or the state has revoked said massage therapy license.
- (b) Summary suspension or revocation.

(1) Grounds. Notwithstanding any provision of Article II. of this Chapter or the notice provisions of Chapter 2, Article V. to the contrary, the city treasurer or the treasurer's designee may summarily suspend a massage business license or a massage business manager's license, upon a finding that:

- A. The licensee willfully failed to disclose any information as required in section 11-235; or
- B. The licensee knowingly permitting a person to perform massage therapy when licensee should have reasonably known that such person was not licensed in accordance with section 12-235-101, *et seq.*, C.R.S.; or
- C. A pattern of credible facts emerges that the business is attempting to operate a prostitution enterprise whether or not there is a violation of any other specific law, rule, or code; or
- D. A pattern of credible facts emerges that the licensee knowingly concealed persons within the business premises or permitted employees or contractors to elude inspection; or
- E. A pattern of credible facts emerges that a person who was not licensed in accordance with section 12-235-101, *et seq.*, C.R.S., and did not possess a valid massage therapist license performed massage at the licensed premises; or
- F. The licensee failed to permit an inspection any time the business is occupied or open for business; or
- G. For a business not possessing a valid massage business license, the licensee has had a license revoked for cause anytime within the prior twenty-four (24) months for the same or a substantially similar business either in the city or in another jurisdiction.

(2) Process. Upon a finding that one or more grounds exist for the summary suspension of a massage business license or a massage business manager's license, the city treasurer shall:

- A. Cause a notice of summary suspension of license to be served upon the licensee. The notice shall provide for a hearing to be held within fifteen (15) business days to determine whether the suspension should be terminated or continued or whether the license should be revoked; and
- B. Post a sign upon the licensed premises that the massage business is closed to the public until further notice.

(3) Hearing. The hearing on the summary suspension of a license shall be held pursuant to section 2-88 of this Code. Notwithstanding the provision of Sec. 2-88(e), the administrative hearing officer is authorized to decide if the license under summary suspension should be revoked.

(4) Appeal. Final decisions of the administration hearing officer may be appealed to the district court of Jefferson County.

(5) Additional enforcement remedy. Any massage business found to be operating without the licenses required by Section 11-234 or that continues operating after receiving a notice of summary suspension under subsection 11-243(b), above, is hereby declared to be a nuisance and may be abated pursuant to the provisions of Chapter 15 of this Code.

Section 11-244. Supplemental provisions. The city treasurer or the treasurer's designee, at his or her discretion, may:

- (a) Promulgate rules for approving professional organizations or credentialing agencies; and
- (b) Verify exempt status of individuals, in keeping with the intent of this Article; and
- (c) Exempt additional practices from the requirements of this ordinance; and
- (d) Determine that a practice defined as excluded under the Definition of Massage Business, herein, is no longer exempt, if there is a continued pattern of criminal behavior regarding sexual misconduct or criminal intent that is related to human trafficking disguised as a legitimate exemption.

Section 11-245. Fees.

The application and annual license fees for a massage business license and a massage business manager's license shall be established by the city manager or the manager's designee as part of the annual budget process.

Section 3. Section 2-80 of the Wheat Ridge Code of Laws is hereby amended, as follows:

Sec. 2-80. - Purpose; scope.

The purpose of this article is to encourage prompt compliance with this Code and prompt payment of penalties for violations thereof. This article provides for administrative penalties that may be imposed for violation of the following portions of this Code: Chapter 5, Buildings and Building Regulations; Chapter 9, Health; Chapter 13, Motor Vehicles and Traffic; Chapter 15, Nuisances; Article X of Chapter 11 concerning Massage BUSINESSES ~~Chapter 16, Concerning Massage Parlors, but not to include the balance of Chapter 16, Miscellaneous Offenses;~~ Chapter 21, Streets and Sidewalks; Chapter 22, Taxation; Chapter 24, Vegetation; Chapter 26, Zoning.

Section 4. Subsection 11-32(f) of the Wheat Ridge Code of Laws is hereby repealed.

Section 5. Section 15-16 of the Wheat Ridge Code of Laws is hereby amended, by the addition of the following subsection:

Sec. 15-16. - Offensive trade or business.

...

(7) Certain Massage Businesses. A massage business that is operating without possessing the licenses required by Section 11-234 of this Code, or that continues to operate after receiving a notice of summary suspension under Section 11-243(b) of this Code.

Section 6. Section 26-123 of the Wheat Ridge Code of Laws is hereby amended, as follows:

Section 26-123. - Definitions.

For the purpose of this zoning code, and as used or referred to in other sections, chapters or articles of the Wheat Ridge Code of Laws, unless specifically defined otherwise, the following words and terms are defined as follows. Words used in the present tense include the future; words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure" and the word "shall" is mandatory and not directory. Any word or term used in this chapter not specifically defined BELOW shall be interpreted as that word is defined elsewhere in the Wheat Ridge Code of Laws, or if not defined elsewhere in the Code of Laws, as defined in Colorado Revised Statutes, or if not defined in the statutes, as defined in Webster's Dictionary.

Section 7. The Table of Uses – Commercial and Industrial Districts contained in Section 26-204 is hereby amended, as follows:

Uses	Notes	NC	RC	C-1	C-2	I-E
Massage parlor						P
Massage therapist	See Chapter 11, Article 10 Code of Laws for additional restrictions	P	P	P	P	P
Massage therapy center	See Chapter 11, Article 10 Code of Laws for additional restriction	P	P	P	P	P
MASSAGE BUSINESS	See Chapter 11, Article X, Code of Laws for additional restrictions	P	P	P	P	P

Section 8. Subparagraph A.11.I. of Section 26-613 is hereby amended, as follows:

Sec. 26-613. Home occupations.

...

11. Home occupations are limited to the following business or commercial activities:

...

l. Massage therapist, restricted to one (1) practitioner, POSSESSING A CURRENTLY VALID MASSAGE THERAPIST LICENSE ISSUED BY THE STATE OF COLORADO PURSUANT TO SECTION 12-235-101. ET. SEQ., C.R.S. AND subject to the restrictions of Chapter 11, Article X of the Code of Laws.

m. Other similar uses as approved by the director of community development or board of adjustment and when in conformance with the standards and requirements set forth herein.

Section 9. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 10. Compliance Required – Schedule. Massage businesses, holding valid business licenses issued under Article II. of Chapter 11 of the Wheat Ridge Municipal Code on the date of final passage of this Ordinance, shall come into full compliance with the requirements of this ordinance within ninety (90) days after the effective date of this ordinance. Such businesses will be exempt from the payment of fees for their massage business license if they apply within thirty (30) days after the effective date of this ordinance. Except as specifically described in this Section 10, the requirements of this Ordinance shall apply to all new or currently unlicensed massage businesses upon the effective date of this Ordinance.

Section 11. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 27th day of July, 2020, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for August 8, 2020 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 10th day of August, 2020.

SIGNED by the Mayor on this 10th day of August, 2020.



Bud Starker, Mayor

ATTEST:



Steve Kirkpatrick, City Clerk



Approved as to Form



Gerald E. Dahl, City Attorney

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2020
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