

ORDINANCE NO. 4324

AN ORDINANCE REGULATING AND LICENSING MASSAGE PARLORS

RECITALS:

The number of massage businesses in Grand Junction has increased. With that growth there has been increased concern about criminal conduct and nuisance activity related to massage parlor establishments. The efforts of the Grand Junction Police Department to police and monitor these activities have been ongoing but there is a need for more direct involvement with licensing and enforcement. This would be accomplished by adopting a new ordinance specifically regulating and licensing massage parlor establishments.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

A new Article VII be added to Chapter 10 of the Grand Junction Code of Ordinances regarding businesses. The Ordinance establishes regulations and licensing requirements for massage parlor establishments. The new Article VII shall read as follows:

Chapter 10 BUSINESSES

ARTICLE VII. MASSAGE PARLORS

Sec. 10-200. Purpose.

This chapter is enacted for the purpose of promoting the health, safety and welfare of the citizens of the City by regulating and licensing massage parlors.

Sec. 10-220. Definitions.

As used in this chapter, unless the context otherwise requires, the following words and terms shall be defined as follows:

“*License*” means a grant to a licensee to operate a massage parlor.

“*Licensed Premises*” means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

“*Licensing Authority*” or “*Authority*” means the massage parlor licensing authority of the City.

“*Location*” means a particular parcel of land that may be identified by an address or by other descriptive means.

“*Massage*” means a method of treating the body of another for medical, remedial or hygienic purposes, including but not limited to rubbing, stroking, kneading or tapping with the hand or an instrument or both.

“*Massage Parlor*” means an establishment providing massage, but it does not include training rooms of public or private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams or licensed health care facilities. A facility that is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor.

“*Massage Therapist*”. For purposes of this subsection, “massage therapist” has the meaning set forth in C.R.S. §12-35.5-103. For purposes of this subsection, a massage therapy school may include an equivalency program approved by the state educational board or division charged with the responsibility of approving private occupational schools.

“*Person*” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them.

“*Premises*” means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous thereto.

Sec. 10-230. Licensing authority established.

(a) There is established a massage parlor licensing authority, which shall have and is vested with the authority to grant or refuse licenses for massage parlors based upon the criteria set forth herein, and state law to conduct investigations and to suspend or revoke such licenses for cause in the manner provided by this Code.

(b) Hereinafter, the massage parlor Licensing Authority shall be the persons that comprise the Grand Junction Liquor and Fermented Malt beverage Licensing Authority (to wit a designated hearing officer, the City Attorney or his/her designee and the City Clerk or her/his designee). The qualifications and appointment of members to fill vacancies and removal of members by the City Council shall be in the manner provided by Charter and this Code.

(c) The Authority shall meet as needed. The hearing officer shall preside over all hearings and proceedings of the Authority.

(d) The City Clerk shall receive all applications for licenses and shall issue all licenses granted by the Authority, upon receipt of all fees as are required by this chapter. All public notices required by this chapter shall be accomplished by the City Clerk.

(e) The Code Enforcement Officer for the affected area shall also be the massage parlor inspector, who shall perform routine periodic inspections of the licensed premises and such other duties as the massage parlor Licensing Authority may reasonably direct. Public notice by posting of signs required by this chapter shall be accomplished by the Code Enforcement Officer.

Sec. 10-240. Licensed required – Display.

(a) It is unlawful for any person to operate a massage parlor within this city unless such person shall have first obtained a massage parlor license from the City.

(b) Such license shall be prominently displayed at all times upon the premises for which the license was issued.

Sec. 10-250. Application fee.

Each applicant, whether an individual, partnership or corporation, shall pay an application fee as determined by City Council in accordance with its annual fee resolution at the time of filing an application. Such application fee shall be nonrefundable.

Sec. 10-260. License application.

(a) Applications for a License under the provisions of this Chapter shall be on forms prepared and furnished by the City Clerk which shall set forth such information as the Licensing Authority requires to enable the Authority to determine whether a license should be granted. Each individual applicant, partner of a partnership, officer, director and holder of over ten percent of the corporate stock of the corporate applicant and all managers shall be named in each application form and each of them shall be photographed and fingerprinted by the Grand Junction Police Department. Each individual applicant, partnership and corporate applicant shall also furnish evidence from the Public Works and Planning Department that the proposed establishment meets the requirements of the City zoning ordinance, proof of the applicant's right to possession of the premises, complete plans and specifications for the premises, a financial questionnaire, a background investigation report and consent to release financial information and any other information necessary to complete the investigation of the applicant. Each corporate applicant shall furnish evidence that it is in good standing under the laws of the State of Colorado or in the case of a foreign corporation, evidence that the corporation is currently authorized to do business in the State of Colorado.

(b) The City Clerk shall not accept any application that is not complete in every detail. If an omission or error is discovered by the City Clerk, the application shall be rejected and returned to the applicant for completion or correction without further action by the City Clerk or the Licensing Authority. All fees shall be returned with the application. For purposes of this chapter, the date the City Clerk accepts an application which is complete in every detail shall be the filing date.

(c) Upon receipt of a complete application for a license to operate a massage parlor, the City Clerk shall set the boundaries of the neighborhood to be considered pursuant to Section 10-290 (b) of this chapter in determining whether or not to grant said license.

Sec. 10-270. Public Notice – Posting and Publication.

(a) Upon receipt of a complete application, except an application for renewal or for transfer of ownership, the Licensing Authority shall schedule a public hearing upon the application not less than thirty days after the filing date of the application and shall

post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the municipality in which the premises are located.

(b) Notice given by posting shall include a sign of suitable material, stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners and, if the applicant is a corporation, association or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary and manager.

(c) Notice given by publication shall contain the same information as that required for notice signs.

(d) If the building in which the massage parlor is to be operated is in existence at the time of the application, any sign posted as required in subsections (a) and (b) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(e) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and cross-examine witnesses. As used in this chapter, "party in interest" includes the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(f) The Licensing Authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

Sec. 10-280. Investigation.

(a) When a complete application has been accepted for filing, the required individuals have been fingerprinted and photographed, and the license fee has been paid, the City Clerk shall transmit the application to the Grand Junction Police Department for investigation of the background and financial interest of each individual applicant, each partner holding over ten percent interest of a partnership, each officer, director and holder of over ten percent of the stock of a corporation of a proposed massage parlor establishment. The Police Department shall also investigate the source of funds for the business. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated.

(b) The investigation conducted by the Grand Junction Police Department shall be sufficient to verify the accuracy of all the information submitted as part of the application. The Grand Junction Police Department shall make a recommendation to the Licensing Authority to approve or deny the license based on its investigation. In

investigating the qualifications of any applicant, licensee, or employee or agent of the licensee or applicant, the Licensing Authority may have access to criminal history record information furnished by criminal justice agencies subject to any restrictions imposed by such agencies. In the event the Licensing Authority takes into consideration information concerning the applicant's criminal history records, the Licensing Authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his/her application for a license.

As used in this subsection (b), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(c) No application for a massage parlor license at a particular location by or on behalf of the same person shall be received or acted upon concerning a location for which, within two years preceding, the local Licensing Authority has refused to approve a license on the grounds, in whole or in part, that the license(s) already granted for the particular locality were adequate for the reasonable requirements of the neighborhood and the desires of the inhabitants at the time of such refusal.

Sec. 10-290. Results of Investigation – Decision of Authority – Change of Financial Interest.

(a) Not less than ten days prior to the date of the hearing, the City shall make known the findings based upon its investigation, in writing, the applicant and other interested parties. The Licensing Authority has authority to refuse to issue any license, subject to judicial review.

(b) Before entering any decision approving or denying the application, the Licensing Authority shall consider, except where this chapter specifically provides otherwise, the facts and evidence produced as a result of the investigation, including the reasonable requirements of the neighborhood for the license for which application has been made, the desires of the inhabitants, the number, type and availability of other massage parlors located in or near the neighborhood under consideration, and any other pertinent matters affecting qualifications of the applicant for the conduct of the business proposed.

(c) Any decision of the Licensing Authority approving or denying an application shall be in writing stating the reasons therefor and shall be made within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

(d) No license shall be issued by the Licensing Authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the provisions of this chapter, and then only after inspection of the premises has been made by the Licensing Authority to determine that the applicant has

complied with the plans and specifications submitted upon application. If the building has not been constructed or placed in operation within one year after approval of the license application or construction of the building has not commenced within one year after such approval, the Licensing Authority, in its discretion, may revoke or elect not to renew the license.

(e) Any change in the partners holding over ten percent in interest of a partnership or in the officers, directors or holders of over ten percent of the stock of a corporate licensee holding a massage parlor license shall result in termination of the license of the partnership or corporation, unless such licensee within thirty days after such change, files a written notice of such change with the City Clerk on forms provided by the City Clerk, together with the required fees, fingerprints and photographs. The Grand Junction Police Department shall thereafter conduct an investigation and make a recommendation as set out in Section 10-280.

(f) Each license issued under this chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he holds. A separate license shall be issued for each specific business or business entity and each geographical location.

Sec. 10-300. Renewals.

Application for the renewal of an existing license shall be made to the Licensing Authority not less than forty-five days prior to the date of expiration. The Licensing Authority may cause a hearing on the application or renewal to be held. No such renewal hearing shall be held by the Licensing Authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The Licensing Authority, in its discretion, may revoke or elect not to renew a license if it determines that the licensed premises have been inactive for at least three months. The Licensing Authority may also refuse to renew any license for good cause, subject to judicial review.

Sec. 10-310. Transfer of ownership.

(a) Application shall be made to the Licensing Authority prior to any transfer of ownership on forms prepared and furnished by the Licensing Authority. In determining whether to permit a transfer of ownership, the Licensing Authority shall consider the requirements of Section 10-260. The Licensing Authority may cause a hearing on the application for transfer of ownership to be held. No such hearing shall be held by the Licensing Authority until the notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and written notice of the hearing has been provided the applicant at least ten days prior to the hearing.

(b) When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

Sec. 10-320. Location of Massage Parlors.

(a) It is unlawful to operate or cause to be operated a massage parlor which is in violation of the Grand Junction zoning ordinance.

(b) It is unlawful to operate or cause to be operated a massage parlor within one thousand feet of:

- (1) A church;
- (2) A school or child care facility, as defined in the Grand Junction Zoning Code;
- (3) A public park;
- (4) A boundary of any residential district;
- (5) The property line of a lot devoted to residential use.

(c) It is unlawful to cause or permit the operation of a massage parlor within one thousand feet of another massage parlor or an adult business as defined in the Grand Junction Zoning and Development Code.

(d) It is unlawful to cause or permit the operation or maintenance of more than one massage parlor in the same building, structure or portion thereof.

(e) For the purposes of subsections (b) and (c) above, the distance between any two massage parlors shall be measured in a straight line, without regard to intervening structures or objects, from the closest point of the property line of such use to the closest exterior wall of the structure in which the massage parlor is located.

(f) Any massage parlor lawfully operating on the effective date of this chapter that is in violation of subsections (b) through (e) of this section shall be allowed to continue operating for an amortization period of six (6) months. Six (6) months after this ordinance becomes effective, all massage parlors must comply with subsections (b) through (e) of this section and all other provisions of this chapter.

(g) A massage parlor lawfully operating is not rendered a nonconforming use by the subsequent location of a church, a school or child care facility, as defined in the Grand Junction Zoning and Development Code, public park, residential district, a residential lot, or adult business within one thousand feet of the massage parlor; however, if the massage parlor ceases operation for a period of one hundred eighty (180) days or more, regardless of any intent to resume operation, it may not recommence operation in that location.

(h) No changes of location for a licensed massage parlor shall be allowed.

Sec. 10-340. Identity cards.

(a) Every applicant, licensee, agent or employee of said applicant or licensee who administers massages shall, prior to commencing work in or upon the licensed premises, obtain an identity card from the City Clerk and shall carry said identity card at all times while in or upon the licensed premises.

(b) The identity card shall include the location of the massage parlor, the name, signature and photograph of the individual. A fee of fifty (\$50) dollars shall be charged for each card, said fee to be collected by the City Clerk and used to defray the expenses

of providing such identity cards. A separate identity card shall be required for each person for each place of employment.

(c) Each applicant for an identity card shall be photographed and fingerprinted by the Grand Junction Police Department and must submit an application form, background investigation report, a copy of a valid picture driver's license or other form of acceptable picture identification, and the required identity card and investigation fees to the City Clerk. Upon receipt of a properly completed application form, acceptable form of identification and fee, the City Clerk shall transmit the application to the Grand Junction Police Department for investigation of the applicant's background. The City Clerk shall reject any application that is not complete in every detail.

(d) Within forty-five (45) days after filing of a properly completed application for an identity card, the City Clerk will either issue the requested identity card or notify the applicant that the Police Department has recommended denial of the identity card. The Police Department may request a reasonable extension of time from the City Clerk if such extension of time is necessary in order to complete its investigation. Notice of denial of an identity card setting out the grounds for denial shall be sent by certified mail to the applicant at the address provided by the applicant. The grounds for denial shall be those set out in this section and Section 10-350 herein. In the event of a denial, an applicant shall have the right to a hearing before the Licensing Authority as set for in Section 10-350.

(e) Should any identity card be lost, stolen or otherwise missing, the person to whom the identity card was issued shall report the missing card to the City Clerk within forty-eight (48) hours of discovery that the identity card is missing. Replacement identity cards shall be issued within five (5) business days of receipt of an application for a replacement identity card. The fee for a replacement card shall be ten (\$10) dollars.

Sec. 10-350. Suspension – Revocation - Denial of Identification Card - Hearings.

(a) The Licensing Authority may suspend or revoke any license granted pursuant to this chapter upon a finding of the following:

- (1) That repeated disturbances of the public peace involving patrons, agents or employees, or the licensee of the establishment have occurred within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds within the neighborhood of the licensed establishment;
- (2) That the licensee or any agents or employees thereof are illegally offering for sale or illegally allowing to be sold or consumed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed Premises, narcotics or dangerous drugs, fermented malt beverages, or malt, vinous or spirituous beverages;
- (3) That the licensee or any agents or employees thereof permitted patrons to engage in public displays of indecency prohibited by law or permitted patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution with the licensed establishment or upon any parking areas,

sidewalks, access ways or grounds immediately adjacent to the licensed establishment, when the licensee or agent or employee knew or should have known such displays or acts were taking place;

- (4) That the licensee made a false statement or gave false information in connection with an application for or renewal of a massage parlor license;
- (5) That the licensee violated or permitted a violation of any provisions of this chapter.

(b) Nothing in this chapter shall prohibit the City from taking any other enforcement action provided for by the Grand Junction Municipal Code, the laws of the state or of the United States.

(c) A licensee shall be entitled to a hearing before the Licensing Authority if the City Attorney files a written complaint with the Licensing Authority seeking to suspend or revoke a license.

- (1) When there is probable cause to believe that a licensee has committed or has allowed to be committed acts which are grounds for suspension or revocation under this chapter, the City Attorney may file a written complaint with the Licensing Authority setting forth the circumstances of such acts.
- (2) The Licensing Authority shall provide a copy of the complaint to the licensee, together with notice to appear before the Licensing Authority or his designee for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.
- (3) At the hearing referred to above, the Licensing Authority shall hear and consider relevant evidence from any witness. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted. The Licensing Authority shall make findings of fact from the evidence as to whether a violation has occurred. If the Licensing Authority determines that a violation did occur, it shall issue an order within thirty (30) days after the hearing suspending or revoking the licensee's license based on its findings of fact. No suspension shall be for a period longer than six (6) months. A copy of the findings and order shall be mailed to or served on the Licensee at the address on the license.
- (4) The order of the Licensing Authority made pursuant to subsection (c)(3) above shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to appeal said order in a timely manner shall constitute a waiver of any right a licensee may otherwise have to contest the suspension or revocation of his or her license.
- (5) a. The Licensing Authority has the power to administer oaths and issue subpoenas to require the presence of persons and production of papers,

books and records necessary for the determination of any hearing which the Licensing Authority conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Licensing Authority.

b. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the state. Upon failure of any witness to comply with such subpoena, the City Attorney shall petition any judge of the Municipal Court of the city, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

(d) The City Attorney may act on behalf of the City during hearings before the Licensing Authority.

(e) All hearings held before the Licensing Authority under this chapter shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Clerk, and shall pay all costs of preparing such record.

Sec. 10-360. Persons prohibited as licensees.

No license provided by this chapter shall be issued to or held by:

(a) Any corporation, any of whose officers, directors or stockholders holding more than ten percent of the stock thereof are not of good moral character;

(b) Any partnership, association or company, any of whose officers, or any of whose members holding more than ten percent interest therein, are not of good moral character;

(c) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the Licensing Authority;

(d) Any sheriff, deputy sheriff, police officer or prosecuting officer or any of the Licensing Authority's inspectors or employees;

(e) Any person unless he or she is, with respect to his or her character, record and reputation, satisfactory to the Licensing Authority.

Sec. 10-370. Unlawful acts.

(a) It is unlawful for any person:

(1) to operate a massage parlor anywhere within the City without holding a valid Grand Junction massage parlor license;

(2) to work in or upon the licensed premises of a massage parlor administering massages without obtaining and displaying a valid identity card pursuant to Sec. 10- 340 of this chapter;

- (3) to be in or upon the premises of a massage parlor or to obtain the services provided in a massage parlor by misrepresentation of age or by any other method in any place where massage is practiced when such person is under eighteen (18) years of age, unless such person is accompanied by his or her parent or legal guardian, or has a physician's prescription for such massage services;
- (4) to allow the sale, giving or procuring of any massage services to any person under the age of eighteen (18) years, unless such person is accompanied by his or her parent or legal guardian, or has a physician's prescription for such massage services;
- (5) to employ any person under the age of eighteen (18) years in a massage parlor; however, if any person who is not eighteen (18) years of age exhibits a fraudulent proof of age that he or she is eighteen (18) years of age or older, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this chapter for violation of subsection (a)(3) through (5) of this section, unless the person inspecting such proof of age knew or should have known that it was fraudulent;
- (6) to fail to display at all times in a prominent place on the licensed premises a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

FINES OR IMPRISONMENTS MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS UNDER THE GRAND JUNCTION MUNICIPAL CODE AND ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.

- (7) to permit any narcotics or dangerous drugs on the licenses premises;
- (8) to permit any fermented malt beverages or malt, vinous or spirituous liquors on the licensed premises;
- (9) to administer a massage or permit any massage to be administered to a patron whose genitals, anus or female breasts are exposed during the massage

treatment; and no patron of a massage parlor shall knowingly expose his or her genitals, anus or female breasts during a massage;

- (10) to intentionally touch or permit any other person to touch the genitals, anus or female breasts of any other person while on the licensed premises;
- (11) to engage in, encourage, or request, or to permit any person to engage in, encourage, or request acts of masturbation while on the licensed premises;
- (12) to interfere with or refuse to permit any inspection of the licensed premises by the Grand Junction Police Department or agent of the City.

(b) No massage parlor shall be open for business between the hours of twelve (12) midnight and six (6) a.m.

Sec. 10-380. Penalty.

(a) Any person violating any provision of this chapter shall be punished pursuant to Chapter 1.16 of the Grand Junction Municipal Code.

(b) The penalties provided in this section shall not be affected by the penalties provided in any other section of this chapter but shall be construed to be an addition to any other penalties.

Sec. 10-390. Employee apparel.

All employees of the establishment shall wear clothing that covers the pubic area, perineum, buttocks, cleft of the buttocks and entire chest to four (4) inches below the collar bone and legs not exposed more than six (6) inches above the knees. No transparent clothing shall be permitted.

Sec. 10-400. Right of entry.

The application for a massage parlor license shall constitute consent of the licensee and his or her agents or employees to permit the Grand Junction Police Department or any other agent of the City to conduct routine inspections of any licensed massage parlor during the hours the establishment is conducting business and at other times during which activity on the premises is in evidence.

Sec. 10-410. Exemptions.

The following classes of persons and establishments are exempted from this ordinance:

(a) Physicians, osteopaths, physical therapists, chiropodists, chiropractors or podiatrists licensed or registered to practice in this state while performing such services in the practice of their respective professions;

(b) Registered nurses and licensed practical nurses that are licensed to practice in this state while performing such services in their usual nursing duties;

(c) Barbers and cosmetologists duly licensed under the laws of this state in the course of practice of their usual and ordinary licensed vocation and profession, as defined in C.R.S. § 12-8-101, et seq.;

(d) Hospitals, clinics, nursing and convalescent homes and other similar institutions dedicated to medical or nursing practices licensed under the laws of this

state where massage and baths may be given;

(e) Massage practiced in an institution of learning established for such instruction under C.R.S., Title 12, Article 59;

(f) Training rooms of public and private schools accredited by the State Board of Education or approved by the State Board for Community Colleges and Occupational Education, and training rooms of recognized professional or amateur athletic teams;

(g) Health care facilities licensed by the State of Colorado and not specified in this chapter;

(h) Massage therapists as defined in Section 10-220 of this chapter.

Sec. 10-420. Severability.

If any paragraph or subparagraph of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not invalidate the remainder of this chapter and, to this end, the provisions of this chapter are declared to be severable.

Sec. 10-430. Prostitution prohibited.

(a) Any person who performs, offers or agrees to perform any act of sexual intercourse, anal intercourse, cunnilingus, fellatio or masturbation with any person not his or her spouse in exchange for money or other thing of value commits prostitution.

(b) Any person, while giving a massage or while appearing nude or semi-nude, who permits or encourages another person not his or her spouse to masturbate in exchange for money or other thing of value commits prostitution.

Sec. 10-440. Soliciting for prostitution.

Any person who does any of the following commits soliciting for prostitution:

(a) Solicits another for the purpose of prostitution;

(b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution;

(c) By word, gesture or action, endeavors or arranges to further the practice of prostitution or to obtain the services of a prostitute; or

(d) Directs another to a place knowing such direction is for the purposes of prostitution.

Sec. 10-450. Pandering.

Any person who for money or other thing of value knowingly arranges or offers to arrange a situation in which a person may practice prostitution commits pandering.

Sec. 10-460. Keeping a place of prostitution.

Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits keeping a place of prostitution:

(a) Knowingly grants or permits the use of such place for the purpose of prostitution; or

(b) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

Sec. 10-470. Patronizing a prostitute.

(a) Any person who offers or agrees to pay money or other thing of value to a person not his or her spouse in exchange for the performance of an act of sexual intercourse commits patronizing a prostitute.

(b) Any person who enters or remains in a place of prostitution, with intent to engage in an act of sexual intercourse with a person not his or her spouse, in exchange for the payment of money or other thing of value, commits patronizing a prostitute.

Sec. 10-480. Prostitute making display.

Any person who by word, gesture or action, endeavors to further the practice of prostitution in any public place or within public view commits prostitute making display.

Sec. 10-490. Confiscation of monies used in prostitution offenses.

In addition to any fines, costs or other penalty that the court may impose, a conviction, plea of guilty, no contest or entry of a deferred judgment or sentence to a violation of this chapter shall result in forfeiture to the seizure fund of the Grand Junction Police Department of any monies used in the commission of a violation of this chapter.

Sec. 10-500. Additional Definitions.

For the purposes of this chapter, the words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

“*Anal intercourse*” means sexual contact between human beings of the genital organs of one and the anus of another.

“*Cunnilingus*” means any act of oral stimulation of the vulva or clitoris.

“*Fellatio*” means any act of oral stimulation of the penis.

“*Masturbation*” means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

“*Nude*” means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

“*Semi-nude*” means a state of dress in which clothing covers no more than the genitals, public region or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

“*Sexual intercourse*” means real or simulated intercourse, whether genital-genital, anal-genital, anal intercourse, cunnilingus or fellatio, between human beings of the opposite or same sex or with an artificial device.

ALL OTHER PROVISIONS OF CHAPTER 10 SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED for first reading and authorized the publication in pamphlet form by the City Council of the City of Grand Junction, Colorado this 21st day of January, 2009.

PASSED AND ADOPTED on second reading and authorized the publication in pamphlet form by the City Council of the City of Grand Junction, Colorado this 4th day of February, 2009.

/s/: Gregg Palmer
President of the Council

Attest:

/s/: Stephanie Tuin
City Clerk