


CITY CLERK'S OFFICE MEMORANDUM
#11-02

April 28, 2011

TO: Honorable Mayor Joyce Downing and City Council Members
FROM: Johanna Small, City Clerk 
SUBJECT: CB-1749 – Massage Parlor Licensing

BACKGROUND:

A draft ordinance for the licensing of massage parlors was presented to City Council at the April 21, 2011 study session. State statute, C.R.S. § 12-48.5-101 et seq. contemplates having such a regulatory scheme, and the ordinance was proposed by staff to address the following:

- These types of premises previously operating in the City have been the subject of extended investigation linked to criminal operations in other local jurisdictions.
- These types of establishments nationally have a reputation as covers for illegal activities.
- The absence of a local ordinance may make Northglenn a target; our neighboring communities have regulations.
- Allows the police to inspect massage parlors.

C.R.S. § 12-48.5-118 authorizes more stringent standards for the licensing of massage parlors than those contained in the State statute. The draft ordinance mirrors State statute and also contains additional language regarding the definition of massage and massage parlor, requirements for identification cards, and unlawful acts. The draft ordinance has been revised by the City Attorney based on Council's discussion at the April 21st study session and a new Section 2 regarding the designation of the Liquor Licensing Authority as the licensing authority for massage parlors has been added.

STAFF REFERENCE:

Please contact Johanna Small, City Clerk at jsmall@northglenn.org or 303-450-8757 with any questions or comments.

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1749
Series of 2011

Series of 2011

A BILL FOR AN ORDINANCE AMENDING THE NORTHGLENN MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW ARTICLE 15 TO CHAPTER 18 CONCERNING THE LICENSING OF MASSAGE PARLORS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The City of Northglenn Municipal Code is amended by the addition thereto of a new Article 15 of Chapter 18, entitled "Massage Parlors," to read as follows:

ARTICLE 15

MASSAGE PARLORS

Section 18-15-1. Purpose. This article is enacted for the purpose of promoting the health, safety, and welfare of the citizens of the City by regulating and licensing massage parlors.

Section 18-15-2. Definitions. As used in this article, 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 article 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 City of Northglenn Liquor Licensing Authority, designated to act as 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, and for purposes of this Article, massage shall include any services which are offered or performed for compensation, which are advertised or represented as massage, or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience by a person who is not licensed as a massage therapist.

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 which is operated for the purpose of massage therapy performed only by massage therapists shall not be defined as a massage parlor. All persons providing massage shall be massage therapists for purposes of the exemption from the definition of massage parlor contained herein. For purposes of this subsection, *massage therapist* means a person who was graduated from a massage therapy school accredited by the State Board of Education or division charged with the responsibility of approving private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred (500) hours of training in massage therapy, and registered by the state to engage in the practice of massage therapy. 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.

Section 18-15-3. 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 article.

(b) The massage parlor licensing authority shall be the City of Northglenn Liquor Licensing Authority.

(c) 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 article. All public notices required by this article shall be accomplished by the City Clerk. The City Clerk or the City Clerk's designee 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 article shall be accomplished by the City Clerk.

Section 18-15-4. License required-Display.

(a) It is unlawful for any person to operate a massage parlor within the 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.

Section 18-15-5. Application fee. Each applicant, whether an individual, partnership, or corporation, shall pay an application fee of one hundred fifty dollars (\$150.00) at the time of filing an application. Such application fee shall be nonrefundable.

Section 18-15-6. License application.

(a) Applications for a license under the provisions of this article shall be on forms prepared and furnished by the City Clerk which shall set forth such information as the licensing authority requires enabling 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 (10%) of the corporate stock of the corporate applicant, and all managers known at the time of the application shall be named in each application form, and each of them shall be photographed and fingerprinted by the City Clerk's Office. Each individual applicant, partnership, and corporate applicant shall also furnish evidence from the applicable City departments that the proposed establishment meets the requirements of the City of Northglenn 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 statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it 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. For purposes of this article, 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 18-15-9(b) of this article in determining whether or not to grant said license.

(d) Any massage parlor existing as of the effective date of this ordinance shall file a license application as set forth herein within sixty (60) days of the effective date. Any such massage parlor existing as of the effective date of this ordinance shall be subject to closure by appropriate enforcement action of the City pursuant to Section 18-15-18 if a license has not been successfully obtained within one hundred and eighty (180) days of the effective date of this Ordinance.

Section 18-15-7. 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 (30) days after the filing date of the application and shall post and publish the public notice thereof not less than ten (10) 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 City.

(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 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 City Clerk's Office 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 article, 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.

Section 18-15-8. 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 Northglenn Police Department for investigation of the background and financial interest of each individual applicant, each partner holding over ten (10%) percent interest of a partnership, each officer, director, and holder of over ten percent (10%) 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 Northglenn Police Department shall be sufficient to verify the accuracy of all the information submitted as part of the application.

(1) The Northglenn Police Department shall make a report 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 record, 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 application for a license.

(2) 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 (2) years preceding, the local licensing authority has refused to approve a license on the ground, in whole or in part, that the licenses 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.

Section 18-15-9. Results of investigation; Decision of authority; Change of financial interest.

(a) Not less than five (5) days prior to the date of the hearing, the City shall make known its findings based upon its investigation, in writing, to 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 article 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 a licensing authority approving or denying an application shall be in writing stating the reasons therefore and shall be made within thirty (30) 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 article, and then only after inspection of the premises has been made by the City Clerk or the City Clerk's designee 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 (1) year after approval of the license application or construction of the building has not been commenced within one (1) 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 (10%) in interest of a

partnership or in the officers, directors, or holders of over ten percent (10%) 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 (30) 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 Northglenn Police Department shall thereafter conduct an investigation and make a report as set out in Section 18-15-8.

(f) Each license issued under this article 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.

Section 18-15-10. Renewals. Application for the renewal of an existing license shall be made to the licensing authority not less than forty-five (45) 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 (10) days and notice of the hearing has been provided the applicant at least ten (10) 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 (3) months. The licensing authority may also refuse to renew any license for good cause, subject to judicial review.

Section 18-15-11. 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 City Clerk's Office. In determining whether to permit a transfer of ownership, the licensing authority shall consider the requirements of Section 18-15-16. 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 (10) days and written notice of the hearing has been provided the applicant at least ten (10) 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.

Section 18-15-12. Location of massage parlors.

(a) It is unlawful to operate or cause to be operated a massage parlor which is in violation of the Northglenn Zoning Ordinance.

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

Section 18-15-13. License term; Fees.

(a) All licenses granted pursuant to this article shall be for a term of one (1) year. Said

term shall commence on the date the license is issued or renewed.

(b) The license fee for a new license shall be determined by resolution of the City Council, and shall not exceed the amount set forth by state statute. The annual license renewal fee shall also be determined by resolution of the City Council, and shall not exceed the amount set forth by state statute.

(c) In the event of a suspension, revocation, or cessation of business, no portion of the license fee shall be refunded.

Section 18-15-14. Identity cards.

(a) Every applicant, licensee, manager, agent or employee of said applicant shall be photographed and fingerprinted by the City Clerk's Office to complete an investigation of such individuals. Every applicant shall further provide a list of employees after said applicant's application is deemed complete pursuant to Section 18-5-6 to allow the City to complete a background investigation on such individuals, which investigation must be completed prior to a license being issued.

(b) Every applicant, licensee, agent or employee of said applicant or licensee who is employed by a massage parlor 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.

(c) The identity card shall include the location of the massage parlor, the name, signature, and photograph of the individual. A fee of fifty dollars (\$50.00) 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.

(d) Each applicant for an identity card shall be photographed and fingerprinted by the City Clerk's Office 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 Northglenn Police Department for investigation of the applicant's background. The City Clerk shall reject any application that is not complete in every detail.

(e) 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 18-15-16 herein. In the event of a denial, an applicant shall have the right to a hearing before the licensing authority as set forth in Section 18-15-15.

(f) 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 dollars (\$10.00).

Section 18-15-15. Suspension; Revocation; Denial of ID card; Hearings.

(a) The licensing authority may suspend or revoke any license granted pursuant to this article 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 Northglenn Municipal Code Section 9-3-7, or permitted patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution within 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 article.

(b) Nothing in this article shall prohibit the City from taking any other enforcement action provided for by the Northglenn Municipal Code, the laws of the state of Colorado, 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 article, 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 facts. No suspension shall be for a longer period 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 Adams County 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 license.

(5) 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 to 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.

(6) A subpoena shall be served in the same manner as a subpoena issued by the District Court of the state of Colorado. Upon failure of any witness to comply with such subpoena, the City Attorney shall:

(A) Petition 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; or

(B) Petition the District Court in and for Adams County, 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 as in other civil actions, 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 article 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.

Section 18-15-16. Persons prohibited as licensees. No license provided by this article shall be issued to or held by:

(a) Any corporation, any of whose officers, directors, or stockholders holding more than ten percent (10%) 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 (10%) 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 is, with respect to his character, record, and reputation, satisfactory to the licensing authority.

Section 18-15-17. Unlawful acts.

(a) It is unlawful for any person:

(1) To operate a massage parlor anywhere within the City without holding a valid Northglenn massage parlor license;

(2) To work in or upon the licensed premises of a massage parlor without obtaining and displaying a valid identity card pursuant to Section 18-15-14 of this article;

(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 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 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 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 article 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 (14) inches and a width of eleven (11) inches with each letter a minimum of one-half (1/2) inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME UNLESS HE IS ACCOMPANIED BY HIS 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 YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE IS ACCOMPANIED BY HIS 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 NORTHGLENN MUNICIPAL CODE AND ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.

(7) To permit any narcotics or dangerous drugs on the licensed 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; and

(12) To interfere with or refuse to permit any inspection of the licensed premises by the Northglenn Police Department or agent of the City.

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

Section 18-15-18. Penalty.

(a) If any person fails or refuses to obey or comply with or violates any of the provisions of this article, such person upon conviction of such offense be punished by a fine not to exceed four hundred ninety-nine dollars (\$499.00). Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation shall be considered as a separate offense.

(b) Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(c) All remedies and penalties provided for in this section shall be cumulative and independently available to the City, and the City shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

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

Section 18-15-19. 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 Northglenn 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.

Section 18-15-20. 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 who 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.*, as the same may be amended;

(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. § 12-59-101, *et seq.*, as the same may be amended;

(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;

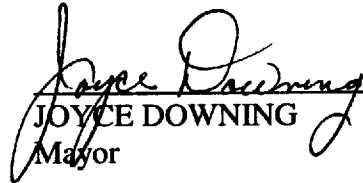
(g) Health care facilities licensed by the state of Colorado, and not specified in this article; and

(h) Massage therapists as defined in Section 18-15-2 of this article.

Section 2. The City of Northglenn Municipal Code is amended by the addition thereto of a new subsection (d) to Section 18-2-2 to read as follows:

(d) The Authority shall have and is further vested as the licensing authority for massage parlors pursuant to Article 15 of Chapter 18 of the Northglenn Municipal Code, and shall have all the powers of the local massage parlor licensing authority as set forth in Article 15 of Chapter 18 of the Northglenn Municipal Code and Article 48.5 of Title 12, C.R.S.

INTRODUCED, READ AND ORDERED POSTED this 28th day of April, 2011.


JOYCE DOWNING
Mayor

ATTEST:


JOHANNA SMALL, CMC
City Clerk


PASSED ON SECOND AND FINAL READING this ____ day of _____, 2011.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney