

El Paso County Ordinance. 23-__

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EL PASO

**AN ORDINANCE ESTABLISHING A LICENSING AUTHORITY TO REGULATE MASSAGE BUSINESSES AND TO
DETER AND SHUT DOWN ILLICIT MASSAGE BUSINESSES AND PREVENT HUMAN TRAFICKING IN THE
UNINCORPORATED PORTIONS OF THE COUNTY OF EL PASO**

WHEREAS, the County of El Paso (“El Paso” or “County”) supports local businesses that provide massage therapy for health and wellness purposes in compliance with the provisions of the Health Care Professions and Occupations requirements, as set forth in §§ 12-235-101 C.R.S., et.seq.;

WHEREAS, illicit massage businesses present a façade of legitimate services, concealing that the primary business is the sex and labor trafficking of victims who are trapped in these businesses;

WHEREAS, human trafficking is a growing problem throughout Colorado and the world;

WHEREAS, illicit massage businesses present a multitude of criminal activity and other unlawful activity in addition to human trafficking;

WHEREAS, various municipalities in Colorado have adopted ordinances against illicit massage services, which has incentivized such businesses to move to areas in Colorado that have no such ordinances, including unincorporated El Paso County;

WHEREAS, H.B. 22-1300, which was signed into law by the Governor on _____, 2022 and becomes effective on August 10, 2022, gives Colorado counties the power under C.R.S. § 30-15-401.4 to regulate massage businesses including without limitation to prevent human trafficking and other criminal activity punishable under the law including without limitation under C.R.S. §§18-1-503 and 504 other unlawful activity;

WHEREAS, H.B. 22-1300 encourages local licensing authorities to report to the State Department of Regulatory Agencies information regarding criminal activities involving licensed massage facilities;

WHEREAS, if a county adopts an ordinance or resolution implementing licensing requirements regulating massage businesses including without limitation human trafficking and other criminal or unlawful activities, the county is required to consult with the cities in that county;

WHEREAS, the County will consult with the City of Colorado Springs, City of Manitou Springs, and City of Fountain regarding these laws, this ORDINANCE, and the criminal and other unlawful acts and activities this Ordinance is meant to address:

WHEREAS, the County through its Board of County Commissioners (“Board”) wants to deter and prevent the human trafficking and other criminal and unlawful activity associated with illicit massage businesses. Further, the County recognizes that the reputation and success of legitimate massage

therapy businesses is denigrated and undermined by individuals who mask their unlawful sexual activity and human trafficking by holding themselves out as massage businesses.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EL PASO THAT THE FOLLOWING ORDINANCE SHALL BE ENACTED REGULATING MASSAGE BUSINESSES AND DETERING AND PREVENTING ILLICIT MASSAGE BUSINESSES, HUMAN TRAFFICKING, AND OTHER CRIMINAL OR UNLAWFUL ACTIVITY, AS FOLLOWS:

ORDINANCE REGULATIONS

1. Definitions (As used in this ORDINANCE unless the context otherwise requires).

- 1.1.** "ADVERTISE" MEANS TO PUBLISH, DISPLAY, OR DISSEMINATE INFORMATION AND INCLUDES, BUT IS NOT LIMITED TO, THE ISSUANCE OF ANY CARD, SIGN, OR DIRECT MAIL, OR CAUSING OR PERMITTING ANY SIGN OR MARKING ON OR IN ANY BUILDING OR STRUCTURE OR IN ANY NEWSPAPER, MAGAZINE, OR DIRECTORY, OR ANY ANNOUNCEMENT OR DISPLAY VIA ANY TELEVISED, COMPUTERIZED ELECTRONIC OR TELEPHONIC NETWORKS OR MEDIA.
- 1.2.** "EROTIC PARLOR" MEANS A FACILITY THAT ENTICES CLIENTS THROUGH ADVERTISING OR OTHER BUSINESS PRACTICES DIRECTED TOWARDS SEXUAL DESIRE, LUST, OR PASSION.
- 1.3.** "FULLY CLOTHED" MEANS FULLY OPAQUE, NONTRANSPARENT MATERIAL THAT MUST NOT EXPOSE AN EMPLOYEE'S GENITALIA OR SUBSTANTIALLY EXPOSE THE EMPLOYEE'S UNDERGARMENTS.
- 1.4.** "ILLICIT MASSAGE BUSINESS" MEANS A BUSINESS THAT MAY PROVIDE MASSAGE BUT ENGAGES IN HUMAN TRAFFICKING-RELATED OFFENSES, AS DESCRIBED IN C.R.S. §18-3-503 AND C.R.S. §18-3-504.
- 1.5.** "LICENSE" MEANS A GRANT TO A LICENSEE TO OPERATE A MASSAGE BUSINESS.
- 1.6.** "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 PREMISES LICENSEE IS AUTHORIZED TO CARRY ON THE PRACTICE OF MASSAGE.
- 1.7.** "LICENSING AUTHORITY" MEANS THE EI PASO COUNTY BOARD OF COUNTY COMMISSIONERS OR SUCH OTHER BODY, DEPARTMENT, ENTITY, OR PERSONS DESIGNATED BY THE BOARD BY ORDINANCE.
- 1.8.** "MASSAGE" OR "MASSAGE THERAPY" HAS THE SAME MEANING AS DEFINED IN C.R.S. §12-235-104 (4).
- 1.9.** "MASSAGE FACILITY" MEANS ANY PLACE OF BUSINESS WHERE MASSAGE THERAPY OR FULL

BODY MASSAGE IS PRACTICED OR ADMINISTERED. A MASSAGE FACILITY DOES NOT INCLUDE THE FOLLOWING:

- 1.9.1. TRAINING ROOMS IN PUBLIC AND NONPUBLIC INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED IN C.R.S. §23-3.1-102(5);
 - 1.9.2. TRAINING ROOMS OF RECOGNIZED PROFESSIONAL OR AMATEUR ATHLETIC TEAMS;
 - 1.9.3. OFFICES, CLINICS, OR OTHER FACILITIES IN WHICH MEDICAL PROFESSIONALS LICENSED BY THE STATE OF COLORADO, OR ANY OTHER STATE, PROVIDE MASSAGE SERVICES TO THE PUBLIC IN THE ORDINARY COURSE OF THE MEDICAL PROFESSION;
 - 1.9.4. MEDICAL FACILITIES LICENSED BY THE STATE;
 - 1.9.5. BARBER SHOPS, BEAUTY SALONS, AND OTHER FACILITIES IN WHICH BARBERS AND COSMETOLOGISTS LICENSED BY THE STATE PROVIDE MASSAGE SERVICES TO THE PUBLIC IN THE ORDINARY COURSE OF THE PROFESSION;
 - 1.9.6. BONA FIDE ATHLETIC CLUBS THAT ARE NOT ENGAGED IN THE PRACTICE OF PROVIDING MASSAGE THERAPY TO THE MEMBERS OR TO THE PUBLIC FOR REMUNERATION OR IF AN ATHLETIC CLUB DOES NOT RECEIVE MORE THAN TEN PERCENT (10%) OF ITS GROSS INCOME PROVIDING MESSAGES TO THE ATHLETIC CLUB'S MEMBERS OR TO THE PUBLIC;
 - 1.9.7. A PLACE OF BUSINESS WHERE A PERSON OFFERS TO PERFORM OR PERFORMS MASSAGE THERAPY: (I) FOR SEVENTY-TWO (72) HOURS OR LESS IN A SIX (6) MONTH PERIOD; AND (II) AS PART OF A PUBLIC OR CHARITY EVENT IN WHICH THE PRIMARY PURPOSE IS NOT TO PROVIDE MASSAGE THERAPY; AND
 - 1.9.8. A PLACE OF BUSINESS WHERE A LICENSED MASSAGE THERAPIST PRACTICES AS A SOLO PRACTITIONER AND: (I) DOES NOT USE A BUSINESS OR ASSUMED NAME; OR (II) USES A BUSINESS OR ASSUMED NAME AND PROVIDES THE MASSAGE THERAPIST'S FULL LEGAL NAME OR LICENSE IN EACH ADVERTISEMENT, AND EACH TIME THE BUSINESS NAME OR ASSUMED NAME APPEARS IN WRITING; AND (III) DOES NOT MAINTAIN OR OPERATE A TABLE SHOWER.
- 1.10.** "MASSAGE THERAPIST" HAS THE SAME MEANING AS DEFINED IN C.R.S §12-235-104 (5) AND IS AN INDIVIDUAL WHO 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..
- 1.11.** "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP, ASSOCIATION, COMPANY, CORPORATION, OR ORGANIZATION OR MANAGING AGENT, SERVANT, OFFICER, PARTNER, OWNER, OPERATOR, OR EMPLOYEE OF ANY OF THEM.

1.12. "SOLO PRACTITIONER" MEANS A LICENSED MASSAGE THERAPIST, AS DEFINED IN C.R.S. §12-235-104 (5), PERFORMING THE PRACTICE OF MASSAGE THERAPY INDEPENDENTLY.

1.13. "TABLE SHOWER" MEANS AN APPARATUS FOR THE BATHING OR MASSAGING OF A PERSON ON A TABLE OR IN A TUB.

2. Licensing Authority and Designated County Department to Receive, Review, Approve, or Deny Applications. The Board is the Licensing Authority for receiving, reviewing, approving, and renewing licensing applications under this Ordinance and enforcement. The Board, however, has the power to delegate any or all such responsibility to any County department, staff, person, or entity it may choose. The Board delegates licensing authority for all such matters to the El Paso County Clerk and Recorder's Office. The Board further delegates the enforcement of this Ordinance to both the El Paso County Clerk and Recorder's Office and the El Paso County Sheriff's Office as described below. The Board may, however, at any time take back any authority designated herein or change such designation of authority to any other department, staff, person, or entity the Board so chooses.

2.1. The El Paso County Clerk and Recorder's Office will be primarily responsible for enforcing the requirements of this Ordinance and pursuing violations similar to how the Clerk and Recorder's Office regulates zoning and building code regulations.

2.2. The Sheriff's Office will assist in the following:

2.2.1. In investigating the fitness of any applicant, licensee, or employee or the agent of the licensee or applicant pursuant to section 3 of this Ordinance, the County Sheriff's Office shall conduct a background check on the applicant's or licensee's criminal history record and provide the local licensing authority, or the licensing authority's designee, information to determine whether the applicant or licensee is approved or denied for a license based on the criminal history record information. In the event the licensing authority takes into consideration information concerning the applicant's or licensee's criminal history record, the licensing authority shall also consider any information provided by the applicant or licensee regarding the criminal history, including, but not limited to, evidence of mitigating factors, rehabilitation, character references, and educational achievements, especially the mitigating factors pertaining to the period of time between the applicant's last criminal conviction and the consideration of the applicant's application for a license or renewal. The Sheriff's Office, licensing authority, or the licensing authority's designee, shall report any criminal activity involving a licensed massage therapist to the Department Of Regulatory agencies.

2.2.2. The Sheriff's Office shall assist the Clerk and Recorder's Office to the extent requested for keeping the peace, ensuring safety, addressing crimes specified herein, and any other crimes, creating and administering penalty citations for violations of this ORDINANCE under the penalty assessment procedures provided in C.R.S. §16-2-201 including increased penalties for repeat offenders; and providing expertise or manpower needed in any searches and inspections of property related to potential criminal activity.

3. Massage Facility Licensing Requirements, Prohibitions, and Enforcement Actions for Violations.

3.1. License Required. A massage facility must obtain a license from the Licensing Authority **prior** to opening for business and operating as a massage facility. Such licenses shall be renewed annually. Such licenses are non-transferable to any other individual or to any other location within the County, except for transfer during sale of the business. Prior to issuance of a license all of the following requirements must be met:

3.1.1 Each application for a massage facility license shall contain the following information:

- (a) If the applicant is an individual; satisfactory proof that he or she is 18 years of age or older.
- (b) 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.
- (c) Whether the applicant, or any of the other individuals required to be listed in the application, have been convicted, or pled "nolo contendere", of 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.
- (d) 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 facility ordinance from another jurisdiction or possession of the United States, denied, suspended, or revoked, and, if so, the name and location of the massage facility for which such license was denied, suspended, or revoked, as well as the date of such denial, suspension, or revocation.
- (e) 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 facility or business meeting the definition of massage facility in this article and the name, dates of operation and location of such business or businesses.
- (f) Satisfactory proof of the applicant's ownership or right to possession of the premises wherein the massage facility will be operated. The applicant shall have a continuing obligation to provide, where applicable, subsequent evidence of the right to possession of the premises.

3.1.2 Annual License and Fee. A REASONABLE ANNUAL ADMINISTRATIVE FEE OF FIFTY DOLLARS (\$50.00) FOR ISSUING OR RENEWING LICENSURE APPLICATIONS IS REQUIRED TO BE PAID PRIOR TO ISSUANCE OF A LICENSE. THE FEE IS NOT BASED ON THE NUMBER OF EMPLOYEES A MASSAGE BUSINESS HAS. ALL PROCEEDS FROM THIS FEE SHALL BE PLACED IN THE GENERAL FUND FOR THE COUNTY. BUSINESSES THAT HOLD A LICENSE BEFORE THE EFFECTIVE DATE OF THIS ACT AND SOLO PRARCTITIONER BUSINESSES ARE EXEMPT FROM THE ADMINISTRATIVE FEES DESCRIBED IN THIS SUBSECTION 3.1.2.

- 3.1.3 List of Employees.** LICENSEES ARE TO MAINTAIN A LIST OF EMPLOYEES ON SITE WITH THE START DATE OF EMPLOYMENT, FULL LEGAL NAME, DATE OF BIRTH, HOME ADDRESS, TELEPHONE NUMBER, AND EMPLOYMENT POSITION OF EACH EMPLOYEE;
- 3.1.4 Valid Government Identification.** LICENSEES AND THEIR EMPLOYEES MUST HAVE VALID GOVERNMENT IDENTIFICATION, INCLUDING BUT NOT LIMITED TO A FORM OF IDENTIFICATION DESCRIBED IN C.R.S. §24-21-521 (4)(a) AND, FOR LICENSED MASSAGE THERAPISTS, A FORM OF IDENTIFICATION REQUIRED FOR LICENSED MASSAGE THERAPISTS AS DESCRIBED IN C.R.S. §24-34-107 (1), THAT MUST BE IMMEDIATELY PRESENTED TO A LICENSING AUTHORITY OR THE LICENSING AUTHORITY'S DESIGNEES UPON REQUEST;
- 3.1.5 Valid Massage Therapy License.** LICENSEES MUST BE LICENSED MASSAGE THERAPISTS AND MAINTAIN COPIES OF VALID MASSAGE THERAPY LICENSURE, AS REQUIRED BY ARTICLE 235 OF TITLE 12, THAT MUST BE IMMEDIATELY PRESENTED TO A LICENSING AUTHORITY, THE LICENSING AUTHORITY'S DESIGNEES, OR LAW ENFORCEMENT UPON REQUEST;
- 3.1.6 All Records Must Be Maintained for Inspection.** LICENSEES MUST MAINTAIN A COMPLETE SET OF RECORDS, WHICH MAY INCLUDE ACCOUNTS, INVOICES, PAYROLL, EMPLOYMENT RECORDS, AND A LOG BOOK OF ALL MASSAGE THERAPY ADMINISTERED AT THE MASSAGE FACILITY. THE LOG BOOK MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE DATE, TIME, AND TYPE OF MASSAGE THERAPY ADMINISTERED, AND THE NAME OF THE MASSAGE THERAPIST ADMINISTERING THE MASSAGE THERAPY. THE LICENSEE SHALL RETAIN THE RECORDS IN THE LOG BOOK FOR A MINIMUM OF ONE (1) YEAR FOLLOWING THE ADMINISTRATION OF MASSAGE THERAPY. LOCAL LAW ENFORCEMENT OR THE LICENSING AUTHORITY, OR THE LICENSING AUTHORITY'S DESIGNEE, MAY INSPECT THE SET OF RECORDS DURING BUSINESS HOURS.
- 3.2 Temporary Massage Facility License.** The Licensing Authority may issue a temporary massage facility license upon receipt of a completed massage facility license application involving the sale or change of ownership in a massage business. The temporary massage facility license is valid for thirty days, and the licensing authority shall renew the temporary massage facility license every thirty (30) days until approval or denial of the massage facility license.
- 3.3 Denial of License Applications or Renewals.** Applications or Renewals may be denied for the following reasons:
- 3.3.1** THE REQUIRED ADMINISTRATIVE FEE IS NOT PAID;
- 3.3.2** THE COUNTY ZONING OR SUBDIVISION REGULATIONS DO NOT ALLOW FOR THE OPERATION OF A MASSAGE FACILITY;
- 3.3.3** THE APPLICANT HAS BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY THE COURT FOR A FELONY OR MISDEMEANOR FOR PROSTITUTION, AS DESCRIBED IN C.R.S. §18-7-201; SOLICITATION OF A PROSTITUTE, AS DESCRIBED IN C.R.S. §18-7-202; A HUMAN TRAFFICKING-RELATED OFFENSE, AS DESCRIBED IN

C.R.S. §18-3-503 OR §18-3-504; MONEY LAUNDERING, AS DESCRIBED IN C.R.S. §18-5-309; OR SIMILAR CRIMES;

- 3.3.4** THE APPLICANT IS REGISTERED AS A SEX OFFENDER OR IS REQUIRED BY LAW TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN C.R.S. §16-22-103;
- 3.3.5** THE APPLICANT HAS A PENDING CRIMINAL ACTION THAT INVOLVES OR IS RELATED TO THE OFFENSES DESCRIBED IN SUBSECTION 3.3.3 OR 3.3.4 OF THIS SECTION;
- 3.3.6** THE APPLICANT HAS ONE OR MORE PREVIOUS REVOCATIONS OR SUSPENSIONS OF A LICENSE TO OPERATE A MASSAGE FACILITY.
- 3.3.7** THE APPLICANT HAS BEEN CONVICTED OF OR PLEADED GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY THE COURT TO A FELONY OR A MISDEMEANOR FOR FRAUD OR THEFT OR EMBEZZLEMENT, AS DESCRIBED IN C.R.S. §18-4-401;

3.4 Temporary Suspension of License Due to Engaging in Prohibited Activities. The Licensing Authority, or the Licensing Authority's designees, may temporarily suspend a license with a hearing to be scheduled within fifteen (15) days when the Licensing Authority finds:

- 3.4.1** THE LICENSEE WILLFULLY FAILED TO DISCLOSE ANY INFORMATION ON THE APPLICATION AS REQUIRED;
- 3.4.2** THE LICENSEE KNOWINGLY PERMITTED A PERSON WHO DOES NOT HOLD A VALID LICENSE PURSUANT TO C.R.S. §12-235-107 TO PERFORM MASSAGE THERAPY;
- 3.4.3** A PATTERN OF ACTIVITY THAT THE MASSAGE FACILITY IS COMMITTING HUMAN TRAFFICKING-RELATED OFFENSES, AS DESCRIBED IN C.R.S. §18-3-503 AND §18-3-504; AND
- 3.4.4** THE LICENSEE FAILED TO PERMIT AN INSPECTION AT A TIME THE MASSAGE FACILITY WAS OPEN FOR BUSINESS.

3.5 Revocation or Suspension of License. The Licensing Authority, or the Licensing Authority's designees may revoke or suspend any massage facility license for committing the following actions:

- 3.5.1** ALLOWING A PERSON WHO DOES NOT HOLD A MASSAGE THERAPY LICENSE PURSUANT TO C.R.S. §12-235-107 TO PERFORM MASSAGE IN A MASSAGE FACILITY;
- 3.5.2** ADVERTISING TO A PROSPECTIVE CLIENT THAT SERVICES, INCLUDING PROSTITUTION, SEXUAL ACTS, ESCORT SERVICES, SEXUAL SERVICES, OR SERVICES RELATED TO HUMAN TRAFFICKING DISGUISED AS LEGITIMATE SERVICES, ARE AVAILABLE;
- 3.5.3** PERMITTING SEXUAL ACTS OR SEXUAL SERVICES WITHIN OR NEAR A MASSAGE FACILITY OR IN RELATION TO MASSAGE THERAPY;
- 3.5.4** DENYING INSPECTION OF A MASSAGE FACILITY BY LAW ENFORCEMENT OR INSPECTORS OF A LICENSING AUTHORITY;
- 3.5.5** REFUSING, INTERFERING WITH, OR ELUDING IMMEDIATE IDENTIFICATION OF EMPLOYEES OF

THE MASSAGE FACILITY TO LAW ENFORCEMENT OR A LICENSING AUTHORITY'S APPOINTED INSPECTORS;

- 3.5.6 FAILING TO IMMEDIATELY REPORT TO LAW ENFORCEMENT ANY ACT OF SEXUAL MISCONDUCT OCCURRING IN A MASSAGE FACILITY;
- 3.5.7 ALLOWING AN EMPLOYEE OR CONTRACTOR OF A MASSAGE FACILITY TO PROVIDE MASSAGE THERAPY WITHOUT BEING FULLY CLOTHED;
- 3.5.8 REQUIRING CLIENT NUDITY AS PART OF A MASSAGE WITHOUT THE CLIENT'S PRIOR CONSENT;
- 3.5.9 ALLOWING A MASSAGE FACILITY TO BE OPEN AND PRACTICING MASSAGE THERAPY WITHOUT A LICENSED MASSAGE THERAPIST ON THE PREMISES;
- 3.5.10 PERMITTING A PERSON IN A MASSAGE FACILITY TO MAKE AN AGREEMENT WITH AN EMPLOYEE OR CONTRACTOR TO ENGAGE IN ANY PROSTITUTION-RELATED OFFENSE IN THE MASSAGE FACILITY OR ANY OTHER LOCATION;
- 3.5.11 PERMITTING A MASSAGE FACILITY TO BE USED FOR HOUSING, SHELTERING, OR HARBORING ANY PERSON, OR AS LIVING OR SLEEPING QUARTERS FOR ANY PERSON; EXCEPT THAT AN OWNER AND THE OWNER'S FAMILY MEMBERS WHO OPERATE A MASSAGE FACILITY AS A HOME BUSINESS ARE EXEMPT FROM THE PROHIBITED ACTIVITY IN THIS SUBSECTION (5); AND
- 3.5.12 OPERATING AN EROTIC PARLOR ON THE PREMISES OF A MASSAGE FACILITY.

4 **Violations of this Ordinance – Fines.** Pursuant to C.R.S. §30-15-402, any person who violates any provision of this Ordinance shall be guilty of a civil infraction. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state or local law, order or regulation. For each separate offense, the penalty for any person found to violate this Ordinance shall be subject to a graduated fine schedule and punished by fines of:

- 4.1 First Violation: Twenty-five dollars (\$25.00).
- 4.2 Second Violation: Fifty dollars (\$50.00).
- 4.3 Subsequent Violations: One hundred dollars (\$100.00).

5 **Continuing Violation.** Each day after the issuance of an order of the El Paso County Court during which a violation of this Ordinance exists shall be deemed a separate violation subject to continuing fine penalties.

6 Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state or local law, order or regulation.

7 **Penalty – Fine Assessment Procedure.**

- 7.1 The penalty assessment procedure provided for in C.R.S. §16-2-201 shall be followed for any violation of this Ordinance. Any person who violates any provision of this Ordinance shall be given a penalty assessment notice by the apprehending peace officer or by the designated County enforcement personnel. The penalty assessment notice shall be a summons and complaint which contains: (i) the identity of the alleged offender by name and address, (ii) specifies the offense with which the person is charged; (iii) states the fine which may be paid directly or by mail to the El Paso County Treasurer at their office or P.O. in Colorado Springs, CO, or if available electronically online through an El Paso County online payment portal or via some other online electronic process and (iv) states the requirement that the alleged offender either pay the fine to the El Paso County Treasurer in person or by mail, at the address specified in the penalty assessment notice within fourteen days of such penalty assessment notice, or else be required to appear to answer the charge before the El Paso County Combined Court, 270 S. Tejon St. in Colorado Springs, CO, at the date and time specified in the penalty assessment notice.
- 7.2 Any person who chooses to acknowledge that they are guilty of the charge specified in the penalty assessment notice may, within fourteen (14) days of the date of issuance of the penalty assessment notice, pay a fine to the El Paso County Treasurer in person at the El Paso County Courthouse in Colorado Springs, CO, by mail to the County Treasurer's address as specified on the penalty assessment notice, or if available, electronically online through an El Paso County payment portal or other online electronic process. Any such payment of the fine specified in the penalty assessment notice shall be accompanied by a copy of the penalty assessment notice signed by the person acknowledging their guilt. Timely payment of the fine specified in the penalty assessment notice shall relieve the person receiving such notice of any further obligation to appear in the El Paso County Court, at the date and time specified in such notice, to answer the offense charged in the notice.
- 8 Public Nuisance Determination, Injunction, and Abatement.** A massage facility that engages in two or more violations of this Ordinance is a public nuisance, as described in C.R.S. §16-13-303, unless the violation is already a public nuisance, as described in C.R.S. §16-13-303. The County Attorney, or the District Attorney acting pursuant to C.R.S. §16-13-302, may bring an action in the District Court of the County of El Paso for an injunction against any massage facility that violates this Ordinance.

GENERAL PROVISIONS

- 9 **Enforcement Personnel.** The penalty assessment procedure provided in this Ordinance is authorized to be followed by any arresting law enforcement officers for the Sheriff's Office who are hereby granted such authorization for enforcement of any violation of this Ordinance pursuant to Sections 3.4, 3.5, and 8 of this ORDINANCE. El Paso Clerk and Recorder's Office will assist in enforcement of this Ordinance.
- 10 **Payment to County Treasurer.** All fines, penalties or forfeitures for the violation of this Ordinance, but not any surcharge imposed by the Court upon conviction, shall be paid to the County Treasurer of El Paso County, CO, within thirty (30) days of the Court's receipt of any such fines, penalties, and/or forfeitures.

- 11 El Paso County Court Jurisdiction.** El Paso County Court shall have jurisdiction in prosecutions of violations of this Ordinance. The simplified county court procedures set forth in Part 1 of Article 2 of Title 16, C.R.S., and the penalty assessment procedures set forth in Part 2 of said Article shall be applicable to the prosecutions of alleged violations of this Ordinance. Any summons and complaint brought in the El Paso County Court for the alleged violation of this Ordinance, shall be filed in the name of El Paso County, and any process issued by the El Paso County Court in such proceedings shall be likewise so denominated.
- 12 Applicability.** This Ordinance shall apply in unincorporated El Paso County.
- 13 Severability.** In the event any portion of this Ordinance shall be declared null and void or unenforceable by any court of competent jurisdiction, such offending portion shall be deemed to be deleted from this Ordinance, provided however that the remaining portions of this Ordinance shall remain in full force and effect and fully enforceable as written; subject, however, to the Board of County Commissioners exercise of discretion to determine that such severed provision is too important, material or fundamental to the Ordinance that the entire Ordinance must be invalidated.
- 14 Emergency Clause.** The Board of County Commissioners finds and determines that the provisions of this Ordinance are essential to the immediate protection of the public health, safety, and welfare of the residents of El Paso County. This Ordinance shall take on the date H.B. 22-1300 becomes effective (August 3, 2022) or on the date of final adoption of this Ordinance by the Board of County Commissioners, whichever is later.

Introduced and first read the _____th day of _____, 2023, and ordered published in full in a newspaper of general circulation published in El Paso County at least ten (10) days prior to final adoption.

NOTICE OF SECOND READING: The second reading of Ordinance 23-__ shall take place at the El Paso County Administrative Building, 200 S. Cascade, Colorado Springs, Colorado, CO 80903 on _____, 2022 at 9 a.m. MST by the El Paso County Board of County Commissioners at a regularly scheduled meeting of the Board for the purposes of adoption of Ordinance 23-__.