

WORK SESSION AGENDA



**Casper City Council
City Hall, Council Chambers
Tuesday, December 8, 2020, 4:30 p.m.**

COVID-19 precautions are in effect at Council meetings. All Council meetings including Work Sessions are held in Chambers. Entrance to the meetings is the east door off David Street. Upon entry you will be asked to sign-in for contact tracing purposes. Face coverings are encouraged. Seating has been gridded into six feet distances. Seating capacity for the public is fifteen seats. Media will be given priority for seating. Public input via email is encouraged: CouncilComments@casperwy.gov

Work Session Meeting Agenda		Recommendation	Allotted Time	Beginning Time
Recommendations = Information Only, Move Forward for Approval, Direction Requested				
1.	Council Meeting Follow-up		5 min	4:30
2.	Nolan Status Update	Information Only	20 min	4:35
3.	Downtown Development Authority Update	Information Only	20 min	4:55
4.	Downtown Speed Limits	Direction Requested	20 min	5:15
5.	Building Permit Requirements	Information Only	20 min	5:35
6.	Prostitution Ordinance	Direction Requested	30 min	5:55
7.	Massage Therapy Ordinance	Move Forward for Approval	30 min	6:25
8.	Creation of CARES ACT Fund	Move Forward for Approval	10 min	6:55
9.	Agenda Review		20 min	7:05
10.	Legislative Review		10 min	7:25
11.	Council Around the Table		10 min	7:35
Approximate End Time:				7:45

Please silence cell phones during the meeting

We are **CASPER**

Communication Accountability Stewardship Professionalism Efficiency Responsiveness

November 30, 2020

MEMO TO: J. Carter Napier, City Manager *JCN*
FROM: Liz Becher, Community Development Director *LB*
SUBJECT: The Nolan Project Status

Meeting Type & Date:

Council Work Session, December 8, 2020.

Action Type:

Information Only

Recommendation:

Information only. No recommendation provided.

Summary:

True Land and Realty, who took over the management of the Nolan project earlier this year, would like to update the City Council on the development plans of the former Plains Furniture properties along David Street. They have expressed excitement for the project and have greatly appreciated the City's support as they have worked through the design development portion of the project. Now they are ready to show everyone what they envision for downtown Casper. Representatives for True Land and Realty will bring updated renderings of the project so that they can be disseminated to those members of the Council that are present.

Financial Considerations:

None.

Oversight/Project Responsibility: Martin J. Axlund, Real Estate and Property Director, True Land and Realty

Attachments: None.

November 30, 2020

MEMO TO: J. Carter Napier, City Manager *JCN*

FROM: Liz Becher, Community Development Director *lb*

SUBJECT: Downtown Development Authority Update

Meeting Type & Date:

Council Work Session, December 8, 2020.

Action Type:

Information Only

Recommendation:

Information only. No recommendation provided.

Summary:

On November 5, 2020, the Downtown Development Authority (DDA) Board Chairman and Executive Director had a conference call with us on at which time they indicated they would like to update the City Council about their progress on pursuing a 501c3 under the Internal Revenue Code for David Street Station. They will also discuss the status of the Ash Street lease, and provide updates on other DDA items/issues that originated with the current Council members.

Financial Considerations:

None.

Oversight/Project Responsibility: Kevin Hawley, Executive Director, Downtown Development Authority (DDA)

Attachments: Copy of Lease Agreement on Ash Street property (owned by the City)



December 3, 2020

Carter Napier, City Manager
The City of Casper
200 N. David Street
Casper, WY 82601

City Manager Napier,

Over seven years ago, a brave group of visionaries embarked on a community enhancement project that we now know as David Street Station. In order to achieve such a transformational and catalytic project, they knew they had to be bold and take risks that some may have dismissed as foolish at the time. One of those risks was the acquisition and relocation of the State office building and its employees located at 226 S. David. Without this first and vital component of the project, David Street Station would cease to exist.

Out of the capital campaign, those visionaries purchased the state building for \$770,000, deeded it and two additional properties back to the city of Casper. They also invested just over \$300,000 into the *city asset* at 135 N. Ash, making necessary improvements, including addressing code, health and safety, and ADA compliance issues. Additionally, they took on the full relocation costs for the state. The original lease agreement was negotiated for 3 years – which was to include rent and utilities; however, with the energy downturn, the State Building Commission requested an additional option for two years, paid by the DDA. This was intended to act as a safeguard in case the consolidated state office building did not receive funding and come to fruition. Lacking any negotiation power or leverage, but believing in the power of David Street Station to transform our community, the visionaries had no other choice but to accept. Currently, the State office building is under construction and providing a much needed boost to the neighborhood and local economy. Yet another significant enhancement to our downtown and community.

Today, four years later, in addition to improving the city asset to the tune of \$300,000 in tenant improvements and upgrades, David Street Station has also contributed \$423,000 in rent payments. Additionally, at our sole expense, four years of utility and minor maintenance payments which average roughly \$35,000 per year. Unfortunately, the great cost in rent and upkeep (drawn from our private donations to operate David Street Station and provide free community events) is making it increasingly difficult to successfully deliver on our community-based mission. Truth be told, it is sinking us.

To date, the City has realized:

- \$300,000 in tenant improvements to their asset.
- Collected \$423,000 in rent, with no substantial carrying costs.
DDA/DSS paid all utilities and minor maintenance and continues to do so (\$35,000 annually) x5 yr; \$175,000
- Received deeds on (3) private lots in the heart of downtown.
- Revitalization of downtown Casper, over \$65 MM
- State office building construction and surrounding private investment (\$40 MM)
- Gained the outstanding benefits to our community from the completion of David Street Station.

In total, the cash investment by DSS has been \$898,000 in this City property (from capital campaign and ongoing fundraising efforts) in order to make David Street Station and the consolidated State Office Building become reality.

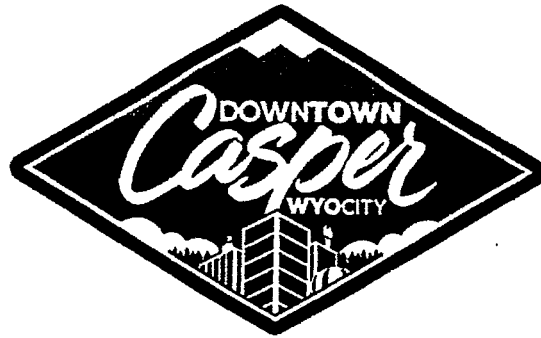
The remaining balance owed to fulfill the contract is roughly \$150,000. In consideration of the efforts and investments detailed above, as well as economic events over the last year, we respectfully request Council consider a forgiveness of the lease payment balance. David Street Station will continue to manage and pay all utilities and minor maintenance as outlined in the contract to the end of the term. Additionally, we would agree to release any claim for distribution of previously approved One-Cent funds (\$14,000) to be applied to any outstanding amount.

The board extends its sincere appreciation to you and the council for your consideration.

Respectfully submitted,

Kevin Hawley

Kevin Hawley
Executive Director



DOWNTOWN DEVELOPMENT
— AUTHORITY —

January 13, 2016

Mr. V.H. McDonald
City Manager
City of Casper
200 N. David Street
Casper, WY 82601

Dear Mr. McDonald:

In accordance with the approved Plan of Development for the downtown events-driven public plaza, the Downtown Development Authority intends to lease the property at 135 N. Ash from the City of Casper. The terms of the lease are for 3 years for a total sum of \$350,000. There is an option for an additional two years on the lease, if necessary, for a total additional sum of \$116,667 per year. Per the agreement, the DDA is responsible for all utility costs associated with the property and any tenant improvements that are necessary.

The proposed and approved renovation plan includes removal of multiple floating partitions on the first floor. The removal of these walls will allow for a more open concept to accommodate cubicles. All offices, restrooms, and break rooms will remain in their current state along the south and west walls. Three additional offices will be added to the northwest and northeast corners of the first floor. The second floor will remain nearly unchanged with the exception of the northwest corner, which will be converted into a large conference area and meeting room. Along with these improvements will come new carpet, paint, door(s), and adjustments to the lighting/electrical system to meet building code standards. Additional improvements above cosmetics will include an ADA wheel chair lift installed on the eastern wall of the property, updated IT and networking, and automated magnetic locks for all exterior doors.

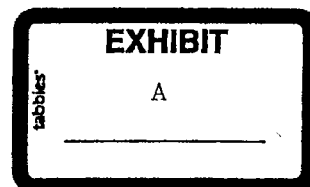
The proposed plan has been developed by the DDA with input and review from city staff, and has been approved by the Building/Inspection Department, pending final Emergency Exit signage review. We appreciate your consideration of this lease agreement and look forward to a mutually beneficial relationship as the lessee of your property.

Thank you for your time and consideration.

Respectfully submitted,

Kevin Hawley

Kevin Hawley
Executive Director



1006421

LEASE AGREEMENT

THIS Lease Agreement ("Lease") is entered into this 19th day of January, 2016, by and between the City of Casper, Wyoming, a Municipal Corporation, 200 N. David, Casper, Wyoming 82601, hereinafter referred to as the "Lessor," and the Downtown Development Authority (also known as the Casper Downtown Development Authority), 234 S. David, Casper, Wyoming 82601, hereinafter referred to as the "Lessee," the Lessor and Lessee collectively referred to herein as the "Parties."

RECITALS

WHEREAS, the Lessee desires to lease from the Lessor, and Lessor desires to lease the Leased Premises described below pursuant to the terms and conditions of this Lease.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties hereto agree by and between them as follows:

1. **INCORPORATION OF RECITALS:**

The recitals set forth above are hereby incorporated herein at this point as if fully set forth as part of this Lease.

2. **LEASED PREMISES, AND WARRANTY DISCLAIMER:**

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, for the term hereinafter provided, and any renewals thereafter, and upon the terms and conditions set forth herein, the following described real property, hereinafter referred to as the Leased Premises:

East Fifteen (15) Feet of Lot 1, and all of Lots 2, 3, 4, and 5, Block 1, Midwest Addition to the City of Casper, Natrona County, Wyoming; and,

Ten (10) parking spaces located in the parking lot lying adjacent to, and to the west of the Casper City Hall located at 200 N. David Street, Casper, Wyoming 82601, for the exclusive use by the Lessee. These spaces shall be designated by the City in its sole discretion, and shall be signed and marked by the City as "reserved spaces." Lessee agrees to, and shall not use any parking spaces in the Lessor's parking lot other than the ten (10) designated parking spaces as set forth herein.

LESSOR HEREBY LEASES THE LEASED PREMISES TO LESSEE "AS IS, WITH ALL FAULTS." LESSOR HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED REGARDING THE CONDITION OR USE OF THE LEASED PREMISES OR THE FITNESS OR MERCHANTABILITY OF THE LEASED PREMISES FOR ANY PARTICULAR USE OR PURPOSE.

Lessee states that Lessee has inspected the Leased Premises, and hereby accepts said property in its present condition.

3. LEASE TERM:

PRIMARY TERM:

The Leased Premises shall be Leased to the Lessee for a primary term of three (3) years (the "Lease Term"), consisting of three annual terms, the first annual term being from the 20th day of January, 2016, to the 20th day of January, 2017; the second annual term being from the 20th day of January, 2017, to the 20th day of January, 2018; and the third annual term being from the 20th day of January, 2018, to midnight of January 19th, 2019.

LEASE EXTENSION TERMS:

As set forth in Section 5 below, the Lessee will be sub-leasing the Leased Premises to the State of Wyoming for its use as a state office building while a permanent structure is being constructed for use by the State. The State intends to reserve the right to extend the sub-lease from the Lessee herein for two additional annual terms in the event the State, for whatever reason is unable to move to its new structure by October 31st, 2018.

In this event, the Lessee shall have the right to extend this Lease for up to two additional annual terms, being the fourth and fifth annual terms thereof. Lessee shall give the Lessor written notice of such extension at least thirty (30) days prior to end of the third annual term of this Lease, in which event, this lease shall be extended for a fourth annual term from the 20th day of January, 2019, to midnight of January 19th, 2020. Thereafter, Lessee, may further extend this Lease for one more annual term, being the fifth annual term by giving the Lessor written notice of such extension at least thirty (30) days prior to end of the fourth annual term of this Lease, in which event, this lease shall be extended for the fifth annual term from the 20th day of January, 2020, to midnight of January 19th, 2021, at which time, if not otherwise sooner terminated as provided herein, this Lease shall terminate and be of no further force or effect between the Parties.

In the event the State of Wyoming vacates the Leased Premises and relinquishes its sub-tenancy to the Lessee prior to the end of any annual term of this Lease, then, in that event, this Lease shall become null and void between the Parties, and, after thirty days following relinquishment by the State of Wyoming, the Lessee shall relinquish possession of the Leased Premises to the Lessor and the Lessor shall have the right to full possession of the Leased Premises free and clear of any claim by Lessee.

4. RENT:

Lessee shall pay to Lessor rent in the total sum of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) for the three year Primary Lease Term of this Lease, payable at the rate of ONE HUNDRED SIXTEEN THOUSAND DOLLARS (\$116,000) for each of the first two annual terms of this Lease, and the sum of ONE HUNDRED EIGHTEEN THOUSAND DOLLARS (\$118,000) for the third annual term of this Lease. The rent due for each annual term shall be due and payable to the Lessor on or before the beginning of each annual term of this Lease.

In the event this lease is extended for one or two additional annual terms, being the fourth and fifth annual terms thereof, Lessee shall pay to the Lessor the sum of One Hundred Sixteen Thousand Six Hundred and Sixty-seven Dollars (\$116,667) as rent for each additional annual term. The rent due for the fourth annual term shall be due and payable to the Lessor on or before the beginning of the fourth annual lease term, and if again extended for a fifth annual term, then on or before the beginning of the fifth annual term.

In the event the State of Wyoming vacates the Leased Premises and relinquishes its sub-tenancy to the Lessee prior to the end of any annual term of this Lease, then, in that event, Lessor shall, as of the date the Lessor takes possession of the Leased Premises from the Lessee, pro-rate back and refund to the Lessee that portion of the rent for that annual term that bears to the number of days remaining in that annual term.

5. PURPOSE, CONSENT TO SUB-LEASE:

Lessor understands and agrees that the Lessee will be sub-leasing the Leased Premises to the State of Wyoming (the Sub-Lessee) for its use as a state office building while a permanent structure is being constructed for use by the State. Lessor hereby consents to the sub-leasing of the Leased Premises to the State of Wyoming for this purpose during the Lease Term.

PROVIDED HOWEVER, in no event shall the Sub-lessee mortgage or otherwise allow the Leased Premises to be encumbered with any lien or charge. Notwithstanding the sub-lease of the Leased Premises to the Sub-Lessee, the Lessee

shall remain liable to the Lessor for compliance with all of the terms and conditions of this Lease.

The Lessee or the Lessee's Sub-Lessee shall not otherwise assign, sell, sub-let, or otherwise transfer any interest in this Lease Agreement, the Leased Premises, or any improvement placed thereon without the prior written consent of the Lessor.

6. LAWS AND REGULATIONS:

Lessee shall be solely responsible for compliance with all laws, orders, and regulations of federal, state, and municipal authorities and with any direction of any public officer pursuant to law. Lessee shall obtain all licenses or permits which may be required for the conduct of its business within the terms of this Lease, or for the making of repairs, additions, alterations, or improvements thereto.

7. INSURANCE:

Lessee agrees to provide and maintain through the Lease Term, and any subsequent renewals of this Lease, liability and property damage insurance in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) for each claimant for any number of claims arising out of a single transaction or occurrence, and in the sum of Five Hundred Thousand Dollars (\$500,000.00) for all claimants arising out of a single transaction or occurrence, and property damage liability insurance in the amount of Fifty Thousand Dollars (\$50,000.00) per occurrence. Lessee shall provide the Lessor with certificates evidencing such insurance as outlined above prior to the commencement of any activities by the Lessee on the Leased Premises. Said insurance policy or policies shall name the Lessor as an additional insured and shall provide the Lessor with at least thirty (30) days written notice of any lapse, termination, cancellation or modification.

It is recognized by and between the Parties to this Lease that the insurance requirements contained herein are the maximum liabilities which may be imposed under Wyoming Statutes 1-39-101 et seq. In the event the maximum liability allowed by law is altered, either during the primary term of this Lease, or any subsequent renewal terms, then such insurance as outlined above from Lessee shall be amended accordingly so as to provide insurance in an amount equal to or greater than the maximum liability imposed by law. The Parties agree that failure to provide proof of insurance as outlined above, or any lapse in that coverage, will result in the Lessor having the option to immediately terminate this Lease and take possession of the Leased Premises.

Lessee shall further insure the improvements made to the Leased Premises against loss by fire or other casualty in amounts and in insurance carriers approved by the Lessor, which in no event shall be less than the then fair market value thereof. Said insurance policy or policies shall name the Lessor as an additional insured as its interests may appear and

shall provide the Lessor with at least thirty (30) days written notice of any lapse, termination, cancellation or modification.

8. INDEMNITY OF LESSOR:

The Lessee hereby agrees to indemnify and hold the Lessor, its officers, elected officials, employees, and agents harmless from any and all liability for personal injury, death, or property damage arising or resulting from the Lessee's or Sub-Lessee's use of the Leased Premises for which the Lessee has liability pursuant to the Wyoming Governmental Claims Act, Wyoming Statutes Section 1-39-101 *et seq.*

9. EMPLOYEES OF LESSEE:

Lessee shall not permit its employees, organizational members or participants to violate any of the terms and conditions of this Lease nor to violate any law, rule, or regulation of the Lessor with respect to the Leased Premises.

10. ADVERTISING:

Lessee shall have the right to procure and to install, affix, maintain, and replace appropriate signs displaying advertising matter at the facility and/or on the property. All advertising shall be subject to the Lessor's right to accept or reject the same, including the right to accept or reject sponsors and advertising content to ensure that any advertising placed at the facility and/or on the property is appropriate in connection with the intended use of the property and its related facilities. Lessee shall not, in procuring, installing, displaying, or replacing any advertising material, violate any person's right to privacy or infringe upon trademarks, trade names, copyrights, or proprietary rights of any person. It is understood that any approval by the Lessor of advertising material shall not constitute a waiver of Lessee's obligations concerning such violations or infringement. Lessee agrees to indemnify and hold the Lessor harmless with respect to all claims alleging such violations, without cost to the Lessor. Advertisement(s) cannot be pre-sold beyond the termination of this Lease.

11. RIGHT TO ENTRY:

The Lessor reserves the right to enter the Leased property at all reasonable times for the purposes of maintenance, public safety, and other general inspections upon reasonable notice, except in cases of emergency, to the Lessee.

12. MAINTENANCE AND REPAIR:

Lessee shall maintain the property in good condition, and shall be solely responsible and liable for any and all damage caused to the Real Property by the intentional or negligent acts of the Lessee, its Sub-Lessee, or any contractors or agents thereof, and for any such damage which is caused by fire or other casualty thereto.

Lessee shall be solely responsible for up to and including the sum of One Thousand Dollars (\$1,000.00), per occurrence, for all repairs to the Leased Premises resulting from normal wear and tear or mechanical or structural failures which are not the result of the intentional or negligent acts of the Lessee, its Sub-Lessee, or any contractors or agents thereof, or otherwise resulting from fire or other casualty for which the Lessee is solely responsible. Subject to the provisions of Section 13, Lessee shall not make expenditures for repairs, alterations, or capital improvements to the Leased Premises in excess of One Thousand Dollars (\$1,000.00), except in case of emergency, without the prior written approval of the Lessor.

Lessor agrees to be solely responsible for all repairs and maintenance to the Leased Premises for any sums in excess of One Thousand Dollars (\$1,000.00), per occurrence, which are not the result of the intentional or negligent acts of the Lessee, its Sub-Lessee, or any contractors or agents thereof, or otherwise resulting from fire or other casualty for which the Lessee is solely responsible.

Lessor agrees to be responsible for the mowing of the lawn and all care thereof, as well as for snow removal from adjacent sidewalks and the parking lot located on the Leased Premises.

13. ADDITIONS, ALTERATIONS, AND IMPROVEMENTS:

Lessee may make alterations, at its sole cost and expense to the Leased Premises, which alterations shall be subject to this Section 13.

Lessor hereby consents to the Lessee making alterations to the Leased Premises as set forth in Exhibit "A" attached hereto.

The plans and specifications for any future alterations to the Leased Premises, as well as for the construction of any future facilities or fixtures on or to the Leased Premises by the Lessee, up to the sum of Twenty Thousand Dollars (\$20,000.00), shall be submitted to the Casper City Manager or his written designee for written approval thereof prior to any construction thereof.

The plans and specifications for any future alterations to the Leased Premises, as well as for the construction of any future facilities or fixtures on or to the Leased Premises by the Lessee, which exceed the sum of Twenty Thousand Dollars (\$20,000.00), shall first be submitted to the Casper City Manager or his written designee for the further approval by the Casper City Council prior to any construction thereof.

All such construction shall meet and be in accordance with all existing plumbing, mechanical, and electrical codes. Lessee shall, at its sole cost and expense, obtain all

necessary building permits before the commencement of any construction on the Premises.

The Parties agree and understand that these are permanent improvements to the Leased Premises, and as such, upon the termination of this Lease any and all improvements to the Leased Premises shall become the sole and separate property of the Lessor, free and clear of any claim by the Lessee.

The Lessor reserves the right to make improvements in or to the Leased Premises, its facilities or improvements as it may desire, upon reasonable notice to Lessee or the Sub-Lessee, provided such improvements do not substantially conflict with the use of the Leased Premises by the Lessee or the Sub-Lessee.

14. UTILITIES AND TAXES:

Lessor agrees to be solely responsible for the payment of all utilities for the Leased Premises from the date of this lease up to March 1st, 2016. Beginning on March 1st, 2016, and thereafter during the lease terms, the Lessee shall timely pay and be solely responsible for all charges for water and sewer services, electricity, natural gas, and other utilities used by Lessee or the Sub-Lessee on the Leased Premises. Lessee shall pay when due all such utility charges free and clear of any claim against the Lessor therefore.

Lessee shall be solely responsible for the costs and expense for all fiber optic cables and services to the Leased Premises.

Lessee shall be solely responsible for, and pay, when due, any and all real and personal property taxes assessed against the Leased Premises.

15. DEFAULT:

In the event Lessee shall fail to make any payment called for pursuant to this Lease or within thirty (30) days after the same shall fall due, then Lessor may terminate this Lease by giving Lessee written notice of such termination, or, in the event the Lessee fails to perform any other obligations called for herein on its part to be performed, and upon written notice duly given of such deficiency by Lessor, and upon Lessee's failure to cure such deficiency within thirty (30) days after such notice, then Lessor may, by written notice to Lessee, terminate this Lease Agreement, effective upon proper delivery or mailing of said written termination notice by Lessor. PROVIDED HOWEVER, in the event the cure of any such deficiency (other than the making of any payment otherwise due the Lessor by the Lessee) will reasonably take more than thirty days, then, in that event, Lessee shall not be considered to be in default as long as Lessee commences said cure within the initial thirty day period and continues to work, in a timely and reasonable fashion the cure of any such deficiency.

Upon such termination, Lessor shall be entitled to possession of the Leased Premises and all improvements and fixtures made by Lessee without any further notice or demand, and Lessee shall peacefully surrender the Leased Premises and all improvements and fixtures made by Lessee free and clear of sub-tenancies, liens, or other encumbrances.

If Lessee shall refuse to surrender and deliver the possession of the premises, then Lessor without further notice or demand, may re-enter the premises and repossess by force, summary proceedings, ejectment, or otherwise using such help, assistance, and force, in doing so that may be equal and proper without being liable for prosecution of damages therefore, and without prejudice to any remedy allowed by law or equity.

It is agreed by the Parties that any breach of any term of this Lease shall constitute cause for termination under this clause.

16. REIMBURSEMENT OF DEFAULT AND EVICTION ACTION EXPENSES:

Lessee shall pay and indemnify Lessor against all legal costs and charges, including attorney's fees, in obtaining possession of the Leased Premises after a default of Lessee or after Lessee's default in surrendering possession upon the expiration or early termination of this Lease or enforcing any covenant of the Lessee herein contained.

17. DESTRUCTION OF LEASED PREMISES OR FIXED ASSETS:

If the fixed assets, buildings or other improvements to the Leased Premises be totally destroyed by fire or other cause, the tenancy created hereby shall be thereafter terminated if the Lessee does not rebuild or restore said improvements so destroyed, provided, however, the Lessee shall fairly compensate the Lessor in monetary value for those assets, buildings, or other improvements totally destroyed. Said improvements not totally destroyed by fire or other cause, regardless of the cause of damage, will be the responsibility of the Lessee to repair, or rebuild to an equal or better condition than they existed prior to any such casualty or to fairly compensate the Lessor in monetary value for any such destruction.

18. NOTICE:

Any notice by either party to the other shall be in writing and shall be deemed to be duly given if delivered personally or if mailed by certified mail, postage paid, addressed to other Party at their following respective address:

LESSOR:

City Manager
City of Casper
200 N. David
Casper, Wyoming 82601

LESSEE:

Executive Director
Casper Downtown Development Authority
234 S. David
Casper, Wyoming 82601

or such other address as either the Lessor or the Lessee shall advise the other, from time to time, in writing as provided above.

19. ENVIRONMENTAL COMPLIANCE:

Lessee shall conduct its operation on the property in compliance with, and shall not permit the property to be in violation of any applicable local, state, or federal environmental laws. Lessee shall obtain and maintain in effect all permits required by any environmental laws for the property, and its uses, and shall furnish to Lessor copies of the permits upon request. Lessee shall comply with all reporting requirements of 42 U.S.C. 11001, *et seq.* (Emergency Planning and Community Right to Know Act). Lessee shall not handle, store, dispose of, or allow the handling, storage, or disposal of any hazardous waste as defined in 42 U.S.C. 6903(5), or hazardous substance as defined in 42 U.S.C. 9601(14), on the property, and shall not discharge any waste onto lands or any surface water or ground water at or near the property. Lessee shall manage all hazardous substances and chemicals which it handles off-site, but in proximity to the subject property in accordance with all applicable laws and regulations. Lessee shall not bring onto the property any substances known to cause human injury, including, without limitation, cancer or reproductive toxicity, except those which are necessary for the prudent and necessary management of Lessee's lawful operations on the property. In addition, Lessee shall comply with all laws, regulations, and standards applicable to those substances.

Lessee shall immediately advise Lessor in writing of (1) any and all governmental agencies regulatory proceedings or enforcement actions instituted or threatened, which require or could require investigation, mitigation, clean-up, alteration, or abatement of any conditions on the property; (2) all claims made or threatened by any party against Lessee or the property, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any pollutant, or hazardous substance; and, (3) Lessee's discovery of any occurrence or condition on the property which might subject Lessee,

Lessor, or the property to any restrictions on ownership, occupancy, transferability, or use of the property under any local, state, or federal environmental law.

Lessee shall make and conduct regular investigations of the property to determine the presence thereon of any hazardous substance which may have been deposited on the property by any party, including third parties, and shall report any condition which indicates the presence of such substances immediately to Lessor and to the proper authorities. Lessee shall advise Lessor, upon request of all such investigations which had been made, the dates of such investigations, and the method of investigation. These investigations shall be made by Lessee not less than on a monthly basis. Lessee, in addition, shall take all reasonable precaution to prevent the dumping, discharge, or threatened discharge of any hazardous substance on the property by any third persons, and shall advise the Lessor in writing, upon request, of all such precautions which have been taken.

Lessor shall have the right to join and participate in, as a party if it so elects, any settlements, remedial actions, legal proceedings, or actions initiated in connection with any claims brought under the environmental laws. Lessee shall be solely responsible for and shall indemnify and hold harmless Lessor, its elected officials, appointed officials, employees, agents, successors, or assigns from any and all loss, damage, cost, expense, or liability directly or indirectly arising out of or attributable to the use, generation, manufacturer, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of hazardous substances on, under, or about the property including without limitation:

- A. All foreseeable and unforeseeable consequential damages;
- B. The costs of any required or necessary repair, clean-up, or detoxification of the property, and the preparation and implementation of any closure, remedial, or other required plans; and,
- C. All reasonable costs and expenses incurred by Lessor in connection with clauses (A) and (B) including, without limitation, including reasonable attorney's fees.

20. MORTGAGES, LIENS, AND ENCUMBRANCES:

Lessee agrees not to authorize or otherwise incur any expenses for construction on or repair of the Leased Premises without notifying the Lessor, in writing, and obtaining written consent for any such construction or repairs from the Lessor.

Lessee agrees not to mortgage, encumber or otherwise allow any lien to be placed on the Leased Premises. Lessee agrees to indemnify and save harmless the Lessor from any and all liens or encumbrances placed on the Leased Premises or for any loss or claim arising for labor or material furnished to or for the Leased Premises not otherwise consented to, in writing, by the Lessor.

Lessee, and any sub-lessee thereof shall not enter into or make any contract for

construction, repair, or improvements on, in, or to premises, or any part thereof, or for any work to be done or materials to be furnished on or to premises, or any part thereof, without providing in such contract or agreement that no mechanics or materialmens lien shall be created or shall arise at any time against the Leased Premises and/or the building or improvements located thereon. All persons furnishing any work, labor, or materials, as well as all other persons whatever, shall be bound by this provision and by the notice of it from and after date this Lease is recorded in the Natrona County Real Estate records, and notice is hereby given that no mechanics lien, materialmens lien, or any other encumbrance made by or obtained against Lessee or any sub-lessee thereof, or Lessee's interest in Leased Premises, including any building or improvements thereon, shall in any manner or degree affect the title or interest of Lessor in the Leased Premises or the building or improvements thereon.

Lessee, and any sub-lessee thereof agrees not to make any oral contract or agreement for any labor, services, fixtures, material, or supplies in connection with altering, repairing or improving the building or improvements on the Leased Premises, and all written contracts or agreements therefore shall provide that the contractor and their sub-contractor(s) waive all right to a mechanics or materialmens lien by reason of furnishing any labor, services and/or material under such contract or agreement. A fully executed original copy of any such contract or agreement shall be delivered to the Lessor prior to the commencement of any work or services, or materials or supplies delivered to the Leased Premises.

21. GOVERNMENTAL IMMUNITY:

The Parties do not waive any right or rights they may have pursuant to the Wyoming Governmental Claims Act, Wyoming Statute Sections 1-39-101 *et seq.* The Parties specifically reserve the right to assert any and all immunities, rights and defenses they may have pursuant to the Wyoming Governmental Claims Act.

22. QUIET ENJOYMENT:

Lessor covenants that upon Lessee's compliance with the terms and conditions of this Lease, it shall have and hold and peacefully enjoy the Leased Premises during the term of this Lease.

23. EQUAL EMPLOYMENT OPPORTUNITY/DISCRIMINATION:

In carrying out the terms of this Lease agreement, Lessee shall not discriminate against any employee or applicant for employment or any member of the public desiring to use the Leased Premises because of race, color, religion, sex, national origin, genetics, or disability.

24. SURRENDER.

At expiration of this Lease, Lessee shall surrender and give peaceable possession of

Leased Premises to the Lessor.

25. RECORDING.

This Lease Agreement shall be recorded in the office of the recorder of deeds of Natrona County, Wyoming.

26. MISCELLANEOUS COVENANTS.

26.1 No Partnership. Anything contained herein to the contrary notwithstanding, Lessor does not in any way or for any purpose become a partner of Lessee in the conduct of its business, or otherwise, or a joint venturer or member of a joint enterprise with Lessee hereunder.

26.2 Force Majeure. Whenever a day is appointed on which, or a period of time is appointed within which, either party is required to do or complete any act, matter or thing, the time for the doing or its completion shall be extended by a period of time equal to the number of days during which such party is prevented from or is unreasonably interfered with, the doing or completion of such act, matter or thing because of strikes, lockouts, embargoes, unavailability of labor or material, wars, insurrections, rebellions, declaration of national emergencies, acts of God, or other causes beyond such party's reasonable control (financial inability excepted). **HOWEVER**, nothing contained in this Section shall excuse Lessee from the prompt payment of any rental or other charge required of Lessee, except as may be expressly provided elsewhere in this Lease.

26.3 Non-waiver of Breach. Each term and provision of this Lease performable by Lessee shall be construed to be both a covenant and a condition. The waiver by Lessor of any breach of any term, covenant or condition of this Lease shall not be deemed a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition. The acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of the preceding breach at the time of acceptance of the rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Lessor unless the waiver is in writing and signed by Lessor.

26.4 Accord and Satisfaction. No payment by Lessee or receipt by Lessor of a lesser amount than the rent due under this Lease shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of the rent or pursue any other

remedy provided in this Lease.

- 26.5 Cancellation not merger. No act or conduct of Lessor, whether consisting of the acceptance of the keys to the Leased Premises, or otherwise, shall be deemed to constitute an acceptance of the surrender of the Leased Premises by Lessee prior to the expiration of the Lease Term, and such acceptance by Lessor of surrender by Lessee shall only flow from and must be evidenced by a written acknowledgment of acceptance of surrender signed by Lessor. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation of it, or the termination of it by Lessor shall not work a merger, but at the option of Lessor shall either terminate any or all existing subleases or sub-tenancies, or operate as an assignment to Lessor of any or all such subleases or sub tenancies.
- 26.6 Amendment. No amendment or modification of the terms of this Lease shall be valid or enforceable unless made in writing and executed by all Parties hereto.
- 26.7 Survival. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Lease, as well as all continuing obligations indicated in this Lease, will survive final payment, completion and acceptance of the services and termination or completion of the Lease.
- 26.8 Successors and Assigns. The terms and conditions of this Lease shall be binding upon the parties hereto, and shall inure to the benefit of all parties hereto and their respective heirs, assigns, successors, grantees, and transferees. The Lessee shall not assign this Lease or otherwise sub-contract its duties and responsibilities as set forth in this Lease without the prior written consent of the Lessor.
- 26.9 Time is of the essence. Time is of the essence of this Lease and all of its terms, provisions, covenants and conditions.
- 26.10 Entire Lease. This Lease shall constitute the entire understanding and agreement of the parties, and supersedes any prior negotiations, discussions or understandings, written or oral. This Lease may be executed in more than one copy, each copy of which shall serve as an original for all purposes, but all copies shall constitute but one and the same Agreement.
- 26.11 Severability. If a court of competent jurisdiction renders any provision of this Lease (or portion of a provision) to be invalid, illegal or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Lease will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Lease.
- 26.12 Third Party Beneficiary Rights. The parties to this Lease do not intend to create in any other individual or entity the status of third-party beneficiary, and this

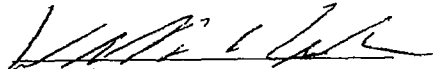
Lease shall not be construed so as to create such status. The rights, duties and obligations contained in this Lease shall operate only between the parties to this Lease, and shall inure solely to the benefit of the parties to this Lease. The parties to this Lease intend and expressly agree that only parties signatory to this Lease shall have any legal or equitable right to seek to enforce this Lease, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Lease, or to bring an action for the breach of this Lease.

26.13 Governing Law and Venue. This Lease, its interpretation and enforcement shall be governed and construed in accordance with the laws of the State of Wyoming. Any litigation regarding this Lease shall be resolved in a court of competent jurisdiction situated in Natrona County, Wyoming.

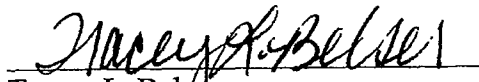
26.14 Authority. Each individual executing this Lease for and on behalf of their principals hereby state that they have the requisite power and authority to enter into this Lease and to consummate the transactions contemplated and intended hereby. Lessee further states that it is authorized to transact business in the State of Wyoming.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease Agreement the day and year first written.

APPROVED AS TO FORM:



City Attorney

ATTEST:


Tracey L. Belser
City Clerk

LESSOR:

CITY OF CASPER, WYOMING
A Municipal Corporation:

By: 
Daniel Sandoval
Mayor

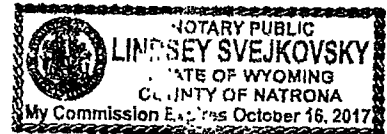


STATE OF WYOMING)
) ss.
COUNTY OF NATRONA)

The foregoing Lease Agreement was acknowledged before me this 19th day of January, 2016 by Kevin Hawley, as the Executive Director of the Board of Directors of the Downtown Development Authority, also known as the Casper Downtown Development Authority, on its behalf as Lessee.

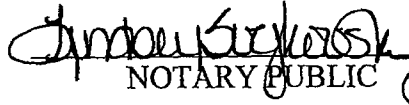

NOTARY PUBLIC

My commission expires: 10/16/2017

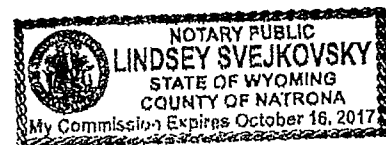


STATE OF WYOMING)
) ss.
COUNTY OF NATRONA)

The foregoing Lease Agreement was acknowledged before me this 19th day of January, 2016 by Charles Walsh, as Chairman of the Board of Directors of the Downtown Development Authority, also known as the Casper Downtown Development Authority, on its behalf as Lessee.


NOTARY PUBLIC

My commission expires: 10/16/2017



Staff has prepared a revised core downtown 20-mph area for Council's consideration. Attached as Exhibit A, the revised boundary removes the areas north of East 1st Street and east of North Wolcott Street, as well as Center Street between the interstate and West B Street. Also removed are areas south of Collins Drive and east of Kimball Street. Collins Drive west of Ash Street has also been removed from the existing boundary.

Proposed to be added to the core downtown 20-mph area is the remainder of the OYD District. Currently extending to Spruce Street, it is recommended this boundary be extended further west to Poplar Street to encompass the entire State office building site and proposed Midwest Avenue improvements.

November 30, 2020

MEMO TO: J. Carter Napier, City Manager *JCN*
FROM: Dan Elston, City Building Official *DE*
CC: Liz Becher, Community Development Director
Craig Collins, AICP, City Planner
SUBJECT: Update on Building Permit Requirements

Meeting Type & Date:

Council Work Session, December 8, 2020.

Action Type:

Information Only

Recommendation:

Information only. No recommendation provided.

Summary:

In response to questions from citizens, City Council requested an update from City staff about what triggers the need for a building permit, per the Building Code. Specifically,

- What type of physical work requires a permit?
- Where does a citizen access the permit requirements?
- Where does a citizen find answers to questions about permitting?

Financial Considerations:

None.


Oversight/Project Responsibility:

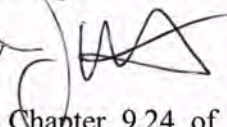
Dan Elston, City Building Official, reports to the City Planner in the Community Development Department.

Attachments:

None

December 3, 2020

MEMO TO: City Council
J. Carter Napier, City Manager 

FROM: John Henley, City Attorney 

SUBJECT: An Ordinance Amending Chapter 9.24 of the Casper Municipal Code – Offenses Against Public Decency, Modifying Certain Sections and Creating New Sections Thereof.

Meeting Type & Date

Work Session
December 8, 2020

Action type

Information and direction requested.

Recommendation

That Council review the attached draft ordinance and prepare follow-up questions and/or comments as appropriate.

Summary

The Casper Police Department and Natrona County Sheriff's Office have seen several cases of prostitution which involve human trafficking. These victims of human trafficking, frequently vulnerable females, often have come to the United States from other countries for promised employment and a path to citizenship. Others victims come from the ranks of nation's youths, who having run away and are living under desperate conditions on the street, are "recruited" with the promise safety and employment. However, instead of legal employment, these individuals are frequently trapped into a system where they are used as a commodity in the sex trade.

This Ordinance will not stop human trafficking, but it will give law enforcement an opportunity to investigate and prosecute prostitution, not only against the business owners who are involved in human trafficking but against individuals who solicit prostitution.

Financial Considerations

None

Oversight/Project Responsibility

Keith McPheeters, Chief of Police
City Attorney's Office

Attachments

Draft Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 9.24 OF THE CASPER MUNICIPAL CODE - OFFENSES AGAINST PUBLIC DECENCY, MODIFYING CERTAIN SECTIONS AND CREATING NEW SECTIONS THEREOF.

WHEREAS, the governing body of the City of Casper has the authority granted by Wyoming State Statute §15-1-103(a)(xiii) and (xli) to adopt ordinances and resolutions necessary to protect the health, safety and welfare of the City and of its citizens; and,

WHEREAS, the governing body of the City of Casper may perform all acts in relation to the concerns of the city necessary to the exercise of its corporate powers; and,

WHEREAS, those powers include the stated action of suppressing or prohibiting houses of prostitution and other disorderly houses illegal sexual services; and,

WHEREAS, the Casper Municipal Code needs updated and modified from time to time; and,

WHEREAS, the governing body of the City of Casper desires to update and amend the following Sections of Chapter 9.24 Offenses Against Public Decency.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: that the following Sections of Chapter 9.24 Offenses Against Public Decency, are hereby updated and amended as follows:

9.24.040 - Prostitution—Defined—Prohibited.

A. For the purposes of this section:

1. "Prostitution" means any person who performs, offers or agrees to perform any act of:
 - a. ~~s~~Sexual intrusion as defined or referenced in this section subsection for any money, property, token, object, or article or anything of value, or or, any touching, manipulation or fondling of the sex organs of one person, whether by touch or the physical use of other items, by another person for any money, property, token, object or article or anything of value, for the purpose of sexual arousal or gratification of any or all of the participants. commits an act of prostitution.
 - b. Performance prostitution as defined and/or referenced in this section for any money, property, token, object, article or anything of value.
2. "Sexual intrusion" means and is defined as in Section 6-2-301 of the Wyoming Statutes, ~~to wit:~~

- a. Any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification or abuse, or
 - b. Sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with or without emission.
3. “Performance prostitution” means any touching, manipulation or fondling of the sex organs and/or areola by one person upon themselves or by one person upon the person of another, whether by touch or the physical use of other items, for the purpose of sexually arousing or sexually gratifying the person who paid for and/or financed the sexual arousal or sexual gratification.
- B. No person shall keep, set up, maintain or operate any place, structure, building or conveyance in which an act or acts of prostitution are performed or for the purpose of prostitution, ~~or~~ with knowledge or reasonable cause to know that the same is or is to be used for such purpose, or receive or offer to agree to receive any person in any place, structure, building or conveyance for the purpose of prostitution, or permit any person to remain therein for such purpose.
- C. No person shall direct, take, transport or offer or agree to take or transport, any person to any place, structure or building or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is for an act of prostitution.
- D. No person shall reside in, enter or remain in any place, structure or building, or enter or remain in any conveyance for the purpose of prostitution.
- E. No person shall engage in or solicit prostitution, ~~or~~ aid or abet prostitution or obtain financial or pecuniary benefit from prostitution, by solicitation or by any means whatsoever.
- F. No person shall solicit an act of prostitution, whether such person is requesting an act of prostitution or offering an act of prostitution.

(Ord. 17-87 § 1, 1987: prior code § 26-33)

(Ord. No. 20-15, § 1, 9-1-2015)

9.24.050-045 - Prostitution—Evidence in prosecutions.

In the trial of any person charged with the violation of any of the provisions of Section 9.24.040, consistent with the United States Constitution, the Wyoming Constitution and the Wyoming Rules of Evidence, testimony of a prior conviction or testimony concerning the reputation of any place, structure or building and of the persons who reside in or frequent the same and of the defendant shall be admissible in evidence in support of the charge.

(Prior code § 26-34)

9.24.050 – Prostitution and Public Indecency Penalties – Administrative Consequences.

- A. No owner, lessee, lessor, operator, manager, agent or employee of a business, place, structure, or conveyance or any licensee thereof, shall permit an act of prostitution under Wyoming Statutes Section 6-4-104 or Section 9.24.040 of this Code, public indecency under Section 9.24.020 of this Code or Wyoming Statutes Section 6-4-201, or shall engage in the sexual exploitation of children under Wyoming Statutes Section 6-4-303.
- B. Any owner convicted of violating the statutes or ordinances referenced in this Section or aiding, abetting or inciting any violation thereof, shall in addition to the penalties prescribed by ordinance or statute, be subject to the administrative suspension or revocation of such individuals or entities license(s) and/or permit(s) for all business operations and activities at the location where the act(s) of prostitution were committed; aiding and abetting or inciting a violation is also sufficient cause for the revocation or suspension of the individuals or entities license(s) and/or permit(s).

9.24.055 – Severability.

If any one or more section, subsection, sentence, clause, phrase, word, provision or application of this code chapter, shall for any person or circumstance, be held to be illegal, invalid, and/or unconstitutional, such decision shall not affect the validity of any other sections, subsections, sentence, clause, phrase, word, provision or application of this code chapter which is operable without the offending section, subsection, sentence, clause, phrase, word, provision or application shall remain effective notwithstanding such illegal, invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, phrase, word, provision or application, and every section, subsection, sentence, clause, phrase, word, provision or application of this code chapter are declared severable. The legislature hereby declares that it would have passed each part, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, word, provision or application be declared illegal, invalid, and/or unconstitutional.

PASSED on 1st reading the ____ day of _____, 2020

PASSED on 2nd reading the ____ day of _____, 2020

PASSED, APPROVED, AND ADOPTED on third and final reading the ____ day of _____, 2020.

APPROVED AS TO FORM:


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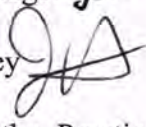
Fleur Tremel
City Clerk

CITY OF CASPER, WYOMING
A Municipal Corporation

Steven K. Freel
Mayor

December 3, 2020

MEMO TO: His Honor the Mayor and Members of City Council
J. Carter Napier, City Manager 

FROM: John Henley, City Attorney 

SUBJECT: An Ordinance to Limit the Practice of Massage Therapy to Certified
Massage Therapists – License Required.

Meeting Type & Date

Work Session
December 8, 2020

Action type

Information and direction requested.

Recommendation

Review information and provide direction regarding the attached proposed amendments.

Summary

City Council discussed the proposed ordinance at the November 17, 2020, Council Meeting, which was the second reading of the Ordinance. Various members of the massage therapy community came forward to present their concerns regarding the proposed ordinance. Council decided to discuss the proposed ordinance at the December 8, 2020, Work Session.

Find attached various Amendments for discussion and consideration addressing some of the concerns discussed at the November 17, 2020 Council Meeting.

Proposed Amendment No. 1, defines a “licensed massage therapist” in the Ordinance.

Proposed Amendment No. 2, if passed, would add a provision which would allow massage therapists who travel with sports organizations and organizations of the like, as well as students or instructors providing instruction for educational programs that meet the requirements of a school under the ordinance to practice massage therapy for no more than ten days in any one calendar year while visiting Casper.

Proposed Amendment No. 3, if passed, would add a time limit to the grandfather clause for massage therapists who are applying for a massage therapy permit pursuant to the grandfather clause. Additionally, Amendment No. 3, if passed, would add a massage therapist’s professional portfolio as an additional credential to submit to the clerk when applying for a massage therapy permit under the grandfather clause.

Proposed Amendment No. 4, would strike unnecessary verbiage if Amendment No. 1 is passed.

Proposed amendment No. 5, if passed, would add exemptions for medical professionals, barbers, beauticians, and cosmetologists who are already licensed and practicing their respective

professions to perform massage therapy or bodywork during the regular course and duties of their profession.

City Council previously discussed a proposed ordinance derived from the regulations adopted in Laramie County, Wyoming. After review of the proposed ordinance derived from those regulations, and Council established a committee led by Councilmembers Steve Cathey (Chair) and Mike Huber, and consisting of city staff and massage therapy professionals who practice in the City of Casper. The Committee provided input and ideas for the development of the new, simplified, and less burdensome ordinance.

The current proposed ordinance provides for:

- Law enforcement background checks and fingerprinting;
- Education of at least 500 hours, which would include classroom and hands-on education;
- Proof the applicant has passed the MBLEx, a national examination administered by the Federation of State Massage Therapy Boards;
- Professional liability insurance requirement;
- Minimal application fees with renewal every two years;
- Grandfather provision for professionals who have practiced for at least two of the last three years in Casper, Wyoming, and have graduated from a massage therapy program.

Financial Considerations

There will be minimal revenue from issuing licenses and permits, but work time spent on licensing and enforcement may be greater than the recovered fees.

Oversight/Project Responsibility

City Clerk's Office
Casper Police Department
City Attorney's Office

Attachments

Proposed draft ordinance

Proposed Amendment No. 1 adding the definition of **“licensed massage therapist”**

I move to amend Section 8.04.100 adding the definition of “Licensed massage therapist” to read as follows:

“Licensed Massage Therapist” means a person who has obtained a permit to practice massage therapy or bodywork from the City of Casper.”

Proposed Amendment No. 2, Amendment to allow traveling massage therapists to practice massage therapy on a temporary basis.

I move to create section 8.04.230 to read as follows:

8.04.230 –Traveling massage therapists; exceptions.

- A. The practice of massage therapy by a person who is a resident of another state and is licensed by the state or local government of such residency or who can legally practice massage therapy in such state, or a person who is a Wyoming resident practicing massage therapy but is not a resident of the City of Casper, who is in Casper temporarily may practice massage therapy no more than ten days in any one calendar year, under one of the following circumstances:
1. The person is traveling with and administering massage therapy to members of a professional, collegiate, or amateur sports organization, dance troupe, or other athletic organization;
 2. The person provides massage therapy at a public athletic event such as the Olympic games, Special Olympics, youth Olympics, or marathons if the massage therapy is provided no earlier than forty-eight hours prior to the commencement of the event and no later than twenty-four hours after the conclusion of the event;
 3. The person is part of an emergency response team or is otherwise working with or for disaster relief officials to provide massage therapy in connection with a disaster situation; or
 4. The person is participating as a student in or instructor of an educational program which meets the requirements of “school” as defined under this Chapter.

Proposed Amendment No. 3 adding a time limit to the grandfather clause, and adding a massage therapist's professional portfolio as a credential for the clerk to consider.

I move to amend Section 8.04.240 Subsection D. 1. and D. 2 to read as follows:

- D. 1. Actively practiced in Casper, Wyoming for at least two of the last three years from the effective date of this Ordinance in Casper, Wyoming; and
- D. 2. Graduated from a school of massage or massage therapy program approved by the clerk's office which may be proven by presentation of a diploma or by providing credentials or a professional portfolio or passed an examination acceptable to the clerk; and

Proposed Amendment No. 4 regarding licensed massage therapists

I move to amend Section 8.04.090 Subsection B. to read as follows:

8.04.090 Purpose and intent for including massage therapy and bodywork businesses and practice.

B. To obtain such a license the business must hire only licensed massage therapists, ~~and to obtain, as a massage and bodywork therapist, a massage therapist permit, the individual must be a licensed massage therapist, or be grandfathered as an established Casper massage therapist.~~

Proposed Amendment No. 5 exemptions for professional practices

I move to create Section 8.04.250

8.04.250 Exemptions for professional practices.

The following persons practicing massage therapy or bodywork while providing one of the professional services as set out in this section are exempt from the provisions of this Chapter concerning massage therapy:

- A. Physicians, physician's assistants, surgeons, chiropractors, osteopaths, occupational therapists, or physical therapists who are licensed to practice their respective profession in the State of Wyoming.
- B. Registered nurses, licensed practical nurses, and certified nursing assistants performing massage services in the course of their usual nursing duties.
- C. Barbers or beauticians who are licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic beautifying purposes.
- D. Cosmetologists and nail technicians who are licensed under the laws of this state, except that this exemption shall solely apply to the massaging of the customer or client's lower leg, starting at the section of the leg at and below the customer or client's kneecap and including their ankles, and feet; and the customer or clients' arms, starting at the customer or client's shoulder to their fingertips.
- E. Hospitals, clinics, nursing and convalescent homes, and other similarly licensed health care facilities.

ORDINANCE NO.

AN ORDINANCE TO LIMIT THE PRACTICE OF MASSAGE THERAPY TO ~~CERTIFIED~~ LICENSED MASSAGE THERAPISTS, LICENSE REQUIRED.

WHEREAS, the governing body of the City of Casper may perform all acts in relation to the concerns of the city necessary to the exercise of its corporate powers; and,

WHEREAS, the governing body of the City of Casper desires to establish a licensing and permit process for professionals and businesses providing massage therapy and bodywork services within the Casper City limits.

WHEREAS, the governing body of the City of Casper has the authority by Wyoming State Statutes §15-1-103(a)(xiii) and (xli) to adopt ordinances, resolutions and regulations including regulations necessary for the health, safety and welfare of the city and necessary to give effect to the powers conferred by the state legislature.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: that Chapter 8.04 Business Affecting Public Health, is hereby amended to encompass the licensing and operation of massage businesses and the practice of massage therapy and bodywork:

Amendments for existing Sections:

8.04.010 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. Adequate. "Adequate" is to be determined by the health officer according to the provisions of this chapter.
- B. "Businesses affecting the public health" means any business other than mobile food vehicles and their operators, within the city furnishing to the public any food and drink, lodging, body art and permanent cosmetic establishments, massage establishments and massage therapists, supervision and care of children and all like services or business, whether such services or businesses are on or off the premises.
- C. "Health officer" means the health officer of the Casper-Natrona County Health Department or his/her representative, whose duty it is to inspect all businesses affecting the public health.
- D. "Massage Therapy" "Massage" and "Bodywork" mean, for the purposes of this ordinance, the application of a system of structured touch, pressure, movement and holding of the soft tissues of the human body. The application may include pressure

friction stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement. Complementary methods, including the external application of water, heat, cold, lubricants and other topical preparations; or the use of mechanical device that mimic or enhance actions may be done by the massage therapist.

E. "Permit" means the permit needed to engage in the activities of a massage and/or body work therapist required by this Ordinance; the permit fee is sixty dollars.

F. "Public" means four or more people not related to the operator of the business affecting the public health.

G. "School" means a school or educational institution, as approved by the City Clerk's Office that issues or has issued an official diploma or certificate of completion to successful students completing a massage therapy affiliated curriculum consisting of not less than five hundred hours of instruction, including in class hands-on practicum under the supervision of staff instructors. The school must be licensed, if required, through the applicable state agency in the state in which the school is located.

1. If a state license is not required, the school must meet one of the following requirements:

a. The school's massage therapy affiliated curriculum must be reviewed, evaluated and approved by a national or international professional massage therapy organization; or

b. The school must have current accreditation status issued by an accreditation organization recognized by the U.S. Department of Education or the Wyoming Department of Education; or have current accreditation status issued by a national accreditation organization or have current accreditation status accepted by the City Clerk's Office.

8.04.020 - License—Fee.

A. Every business affecting the public health shall, before beginning business, apply to the city for a license pursuant to this Chapter, and, after the business and premises are inspected and approved by the health officer and payment of the proper fee, such license shall be issued. The license fee and health officer inspections shall befor those businesses other than massage therapy and bodywork establishments and massage therapists shall be:

1. -Seventy-five dollars for swimming pools, food manufacturers, food distributors, food processors, groceries, bakeries, meat markets and delicatessens; provide, however, that groceries or supermarkets shall be charged a base license fee of seventy-five dollars, plus twenty-five dollars each for meat markets, bakeries and delicatessens;

2. Twenty-five dollars for campground facilities, motels, hotels, bed and breakfasts and body art and permanent cosmetic establishments;

3. Fifty dollars for child day care facilities;
4. One hundred dollars for bars. If a bar provides food, an additional license fee of twenty-five dollars is required;
5. One hundred dollars for restaurants. If a restaurant provides alcoholic liquor or malt beverage, an additional license fee of twenty-five dollars is required;
6. No license fee shall be required for food service facilities on any parochial, private or public school property.
7. The fees and requirements for massage and bodywork establishments and massage therapists are set forth beginning at Section 8.04.090; those specific provisions shall control when they are in conflict with the earlier provisions of this Chapter.

B. Unless otherwise provided, if a business enterprise involves more than one of the above-named services or businesses, a license must be obtained for each fee classification.

Newly Created Sections:

8.04.090 Purpose and intent for including massage therapy and bodywork businesses and practice.

- A. It is the intent of the City of Casper that all entities and establishments which provide massage therapy services within the Casper City limits, shall be licensed by the City of Casper as well as all individuals who provide the services for such businesses.
- B. To obtain such a license the business must hire only ~~certified-licensed~~ massage therapists, and to obtain, as a massage and bodywork therapist, a massage therapist permit, the individual must be a ~~certified-licensed~~ massage therapist, or be grandfathered as an established Casper massage therapist.
- C. The purpose of this Chapter is to comply with the statutory authority given to the governing body of cities within Wyoming to protect the health, safety and general welfare of its citizens.

8.04.100 Definitions applicable to Sections 8.04.110 through 8.04.280 concerning massage therapy.

- A. "Business Entity" means a sole proprietorship, corporation, partnership, association, limited partnership, or LLC.
- B. "Massage Establishment" means any establishment having a fixed place of business wherein any person, firm, association or corporation engages in or carries on or permits to engage in or carry on any of the activities mentioned in this Ordinance. Any establishment engaged in or carrying on, or permitting any type of massage for any payment or consideration shall be deemed a massage establishment.

- C. "Massage Therapist" means any person, who gives or administers to another, for any form of payment or consideration, a "massage", as that word is defined in this chapter. This shall include but not be limited to those persons calling themselves massage therapists, massagists, masseuses, or masseurs.
- D. "License" means the license to engage in the activities of a massage establishment required by this Ordinance; the license fee is One Hundred Dollars except for a sole proprietorship. A sole proprietorship shall not be assessed a separate fee for the business, but shall receive a license if the sole proprietorship is the holder of a massage therapist permit.
- E. "Person" means any proprietorship, individual, partnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

8.04.110 Massage Bodywork Therapist Permit.

- A. No person shall practice as a massage and/or bodywork therapist, proprietor, employee or otherwise, unless he/she has a valid and subsisting massage therapist permit issued by the City Clerk's Office, pursuant to the provisions of this Chapter. An application for a permit shall be submitted to the Clerk of the City of Casper who will forward the application to the Casper Police Department for the purpose of conducting background checks and fingerprinting.

8.04.120 Application for Massage Establishment License.

- A. Any person desiring to engage in the business, trade, profession, operation or conduct of a massage establishment as provided in this Chapter shall, before engaging in such business, file an application and pay an application fee of One Hundred Dollars for a license in the Office of the Casper City Clerk. The application once accepted shall be referred to the Casper Police Department for investigation of the applicant's background including the submission of fingerprints.

The requirements of the application are:

1. The full and true name(s) and any other name(s) used by each applicant (hereinafter all provisions which refer to the applicant include any applicant which may be a corporation or partnership, LLC, etc.);
2. The present address and telephone number and a valid driver's license or social security number of each applicant.
 - a. If the applicant is a corporation, partnership, limited partnership, LLC, etc., hereafter business entity, the names and residence addresses of each of the officers and directors of said business entity owning more than ten percent of the business entity, and the address of the business entity, if different from the address of the massage establishment;

3. The location, mailing address, and all telephone numbers where the massage establishment is to be conducted;
4. The prior addresses for three years immediately prior to the date the application for a business license and/or permit of the applicant is submitted to the City Clerk's Office;
5. Proof that the applicant is over the age of majority;
6. The massage or similar business history of each applicant; whether such person, in previously operating in this or another city, county or state, has had a business license or permit revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation;
7. The name and address of each massage therapist who is or will be employed in such establishment;
8. Authorization for the Casper Police Department, its agents and employees to seek information and conduct a national background investigation with fingerprinting, and an investigation into the truth of the statements set forth in the application. The applicant shall be fingerprinted at the Casper Police Department; and
9. The applicant shall notify the Clerk's Office, who in turn will notify the Casper Police Department, of any change in any of the data required to be furnished by this section within seven business days after such change occurs.

Upon completion of the application and the furnishings of all the foregoing information, the Casper City Clerk's Office shall accept the application for processing and forward the application to the Casper Police Department to begin the background check process.

8.04.130 Application for Massage and/or Bodywork Therapist Permit.

- A. The Application, and Application fee of Sixty Dollars to apply for a massage therapist permit shall be made to the City Clerk's Office with the same requirements, and in the manner, as provided in Section 8.04.120, for a massage establishment license. In addition, the application shall contain the following:
 1. Proof of not less than three hundred thousand dollars in general liability insurance coverage;
 2. Proof that the applicant has graduated from a massage therapy school as defined by this Chapter;
 3. Proof that the applicant has passed the MBLEx Examination administered by the Federation of State Massage Therapy Boards or administered by an organization approved by the City Clerk's Office.

8.04.140 Issuance of License for a Massage Establishment or Permit for a Massage Therapist.

- A. Upon completion of the application review, the City Clerk may issue a license for a massage establishment and/or a permit for a massage and/or bodywork therapist to any person if all requirements for a massage establishment license or massage therapist permit as described in this Chapter are met unless the City Clerk's Office finds:
1. The operation, as proposed by the applicant, if permitted, would not comply with this Code Chapter; or
 2. The applicant, if an individual or if a business entity owner owning ten percent or more of the entity and the officers, members, partners and directors of the entity, or the holder of any lien, of any nature, upon the business and/or the equipment used therein, and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense, that would have constituted any of the following offenses if committed within the last ten years within the State of Wyoming:
 - a. An offense involving the use of force and violence upon the person of another that amounts to a felony or would qualify as domestic violence; or
 - b. An offense involving sexual misconduct; or
 - c. An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony; or
 3. The applicant, if an individual, or business entity owner owning ten percent or more of the entity, and the officers, members, partners, and directors of the entity, or the holder of any lien, of any nature upon the business and/or the manager or other person principally in charge of the business has after reaching the age of majority been convicted, including pleas of guilty or nolo contendere, or any offense in Wyoming or any other jurisdiction containing the same elements, or arising out of the same or similar facts or circumstances which requires registry as a sex offender; or
 4. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the license or permit application or in any document required by the applicant; or
 5. The applicant, if an individual, or any of the officers, directors, members or owners owning ten percent or more of the business entity, or manager or other person principally in charge of the operation of the business, is not over the age of eighteen years old.

8.04.150 Approval or Denial of Application.

The City of Casper Clerk's Office (hereafter Clerk's Office) shall act to approve or deny an application for licenses and permits under this section within ten business days, after the reception of recommendation letter from the Chief of Police, or his or her designee,

based on the applicant's ability to meet and maintain the requirements regarding the applicant's criminal background and history as required in this Chapter.

8.04.160 Reserved.

8.04.170 Reserved.

8.04.180 Massage Establishment Operating Requirements.

No person or business entity shall engage in, conduct or carry on, or permit to engage in, conduct or carry on, the operation of a massage establishment unless each and all of the following requirements are met. If the requirements are not met or violated such act or omission is a violation of this Chapter and is unlawful;

- A. Each person employed or acting as a massage and/or bodywork therapist shall have a valid permit issued pursuant to the provisions of this Chapter, and it shall be a violation of this Chapter for any owner, operator, responsible managing employee, manager, or licensee in charge of or in control of a massage establishment to employ or allow a person to act as a massage and/or bodywork therapist who is not in possession of a valid permit;
- B. When a Health Officer or his or her designee has reasonable cause to suspect possible disease transmission by an employee of a massage establishment, he/she may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action.

8.04.190 Massage Therapist Operating Requirements.

No person will engage in, conduct or carry on the practice of a massage therapist unless each of the following requirements are met; if the requirements are not met or violated such act or omission is a violation of this Chapter and is unlawful:

- A. Possession of a valid permit issued pursuant to the provisions of this chapter, a copy of which will be made available upon request.

8.04.200 Transfer of Permit.

No license or permit shall be transferable.

8.04.210 Sale or Transfer Location.

Upon an application for sale or relocation of a massage establishment, the application shall be treated as a new facility.

8.04.220 Name and Place of Business.

No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his/her license, nor shall he/she conduct business under any designation or location not specified in his/her license. Off premises massage service can be included in approved establishment's or permittee's permit.

8.04.240 Denial, Suspension or Revocation of License or Permit.

- A. 1. Within three business days of the denial of an application for a massage establishment license, or a massage therapist permit, the applicant may file with the City Clerk's Office a written request for an appeal hearing. At such hearing, to be held at a reasonable time after receipt of request, evidence shall be received for the purpose of determining whether or not such denial shall be upheld. During the hearing, all requirements of the Wyoming Administrative Procedures Act shall be followed and an independent hearing officer, a member of the Wyoming State Bar, shall be retained to conduct such hearing and render a decision on the issue(s).
2. Any individual who has practiced massage therapy, or has owned a massage establishment in Casper, Wyoming, for at least twelve months preceding the denial of their application for permit or license, may continue to practice massage therapy and/or operate their massage establishment throughout their appeal process.
- B. The notification of the reasons for such decisions shall be set forth in writing and sent to the applicant by means of registered or certified mail or hand delivery.
- C. Suspension or Revocation. Any massage establishment license or massage therapist permit shall be subject to a non-arbitrary suspension or revocation by the City Clerk's Office for a violation in the issuance of such permit in the first instance, or for the violation of any law regulating massage establishments or massage therapists. A suspension of five days or more or a revocation may be appealed pursuant to the procedure referred in the preceding two paragraphs.
- D. Grandfather provision. Any individual who has practiced massage therapy or bodywork, may upon paying a fee of Sixty Dollars, be granted a massage therapist permit to practice in this City without being required to have five hundred hours of schooling and to take an examination, if the applicant provides evidence satisfactory to the clerk as follows:
 1. Actively practiced for at least two of the last three years in Casper, Wyoming; and
 2. Graduated from a school of massage or massage therapy program approved by the clerk's office which may be proven by presentation of a diploma or credentials or passed an examination acceptable to the clerk; and
 3. Is not subject to suspension, revocation, or otherwise restricted in any manner for disciplinary purposes; and

4. Qualifies for licensure or permit under this section pursuant to the background check and fingerprinting provisions; and
5. Denial of an application or suspension, or revocation of a permit issued pursuant to the grandfather provision shall follow the same appeal process as set out subsections A. through C above.

8.04.250 Reserved.

8.04.260 Renewal Procedures.

- A. Any massage establishment license or massage therapist permit issued under the provisions of this chapter shall be valid for two years from the date of issuance.
- B. Any person holding a valid massage establishment license or a valid therapist permit who wishes to renew the same shall submit to the City Clerk's Office no less than sixty days, but no more than ninety days prior to the renewal date the same information and documentation as required for the initial issuance as previously set forth herein.
- C. The City Clerk's Office shall act to approve or deny an application for renewal of a permit under this Ordinance within a reasonable period of time and in no event shall the City Clerk's Office act to approve or deny said permit later than thirty days from the date and said renewal application was accepted and found to be complete by the City Clerk's Office.

8.04.270 Severability and Effective Date.

- A. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- B. This Ordinance shall be in full force and effect six months after its passage.

8.04.280 Violation – Penalty.

- A. Any person or business entity violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and may be punishable by a fine up to Seven Hundred and Fifty Dollars, six months incarceration or both. Ongoing violations are separate occurrences and may result in additional charges.

PASSED on 1st reading the ____ day of _____, 2020

PASSED on 2nd reading the ____ day of _____, 2020

PASSED, APPROVED, AND ADOPTED on third and final reading the ____ day
of _____, 2020.

APPROVED AS TO FORM:



ATTEST:

Fleur Tremel
City Clerk

CITY OF CASPER, WYOMING
A Municipal Corporation

Steven K. Freel
Mayor

December 3, 2020

MEMO TO: J. Carter Napier, City Manager 
FROM: Tom Pitlick, Financial Services Director 
SUBJECT: Creation of CARES ACT FUND

Meeting Type & Date:
Council Work Session
December 8, 2020

Action type:
Information Only

Recommendation:
Move Forward For Approval

Summary:
In accordance with the Council approved Financial Administration Guidelines, a new Fund can only be added to the City's financial accounting structure via recommendation from the City Manager to the City Council with their subsequent approval. Whereas the City of Casper has received notice from the Wyoming State Lands and Investment Board (SLIB) of award of approximately \$13,700,000 of CARES Act funding as reimbursement for submitted expenses incurred in response to the COVID-19 pandemic, and whereas it is appropriate that these reimbursement dollars be accounted for in an identifiable and transparent manner, it is staff's request that the City Manager recommend to Council that a new Fund, entitled the CARES ACT Fund, be established with the purpose of said funds to be used for the mitigation of the ongoing financial impacts caused by the COVID-19 virus.

Financial Considerations:
None

Oversight/Project Responsibility:
Tom Pitlick, Financial Services Director

Attachments:
None