

ORDINANCE NUMBER 22-2551

An Ordinance to Repeal Ordinance No. 224 and to Amend the Hoover, Alabama Code of Ordinances, Chapter 8 Article VIII Entitled “Massage Parlors” and to Establish Standards and Requirements for the Operation of a Massage Therapy Establishment in the City of Hoover, Alabama and to Provide for Penalties and Violations

WHEREAS, Ala. Code §34-43-19(c) (1975) gives local municipalities authority to regulate persons licensed by the Alabama Board of Massage Therapy in operating a business within the corporate limits; and

WHEREAS, Ala. Code §11-45-1 (1975) further empowers municipalities to adopt ordinances and resolutions that “...provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality” and further enforce obedience to such ordinances; and

WHEREAS, the City desires to update this Ordinance in order to clarify the application process, the duties, and the requirements of those seeking to do business as a massage therapy establishment.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOOVER, ALABAMA, THAT ORDINANCE NUMBER 224 IS HEREBY REPEALED IN ITS ENTIRETY AND THAT CHAPTER 8 ARTICLE VIII, HOOVER CODE OF ORDINANCES, ENTITLED “MASSAGE PARLORS” IS HEREBY AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:

ARTICLE VIII. MASSAGE THERAPY ESTABLISHMENTS

Section 1. PURPOSE

The purpose of this article is to set forth the process, the requirements, and the standards required for any entity or individual to be approved operate within the corporate limits of Hoover, Alabama, as a massage therapy establishment and/or a massage therapist as defined in this Chapter. Nothing contained in this Chapter shall be construed to alter, change, remove, or otherwise lessen any other requirement by the state of Alabama.

Section 2. DEFINITIONS.

As used in this article, the following terms shall have the respective meaning ascribed to them:

- (a) *Massage*: The mobilization of the soft tissue which may include skin, fascia, tendons, ligaments, and muscles, for the purpose of establishing and maintaining good physical condition. The term shall include effleurage, petrissage, tapotement, compression, vibration, stretching, heliotherapy, superficial hot and cold applications, topical applications, or other therapy which involves movement either by hand, forearm, elbow, or foot, for the purpose of therapeutic massage. Massage therapy may include the external application and use of herbal or chemical preparations and lubricants such as salts, powders, liquids, nonprescription

creams, mechanical devices such as T-bars, thumpers, body support systems, heat lamps, hot and cold packs, salt glow, steam cabinet baths or hydrotherapy. The term includes any massage, movement therapy, massage technology, myotherapy, massotherapy, oriental massage techniques, structural integration, or polarity therapy. The term shall not include laser therapy, microwave, injection therapy, manipulation of the joints, or any diagnosis or treatment of an illness that normally involves the practice of medicine, chiropractic, physical therapy, podiatry, nursing, midwifery, occupational therapy, veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or naturopathics.

- (b) *Massage Therapy Establishment*: Any establishment having fixed place of business where any person engages in the business of giving massages or permits others to engage in such business or practice, also known as or sometimes referred to as “Massage Parlors.”
- (c) *Employee*: Any person, other than a massage therapist, who renders any service to the licensee who receives compensation directly from the licensee, and who has no physical contact with the customers and clients.
- (d) *Massage Therapist*. A person licensed in accordance with the “Alabama Massage Therapy Licensure Act” set forth in Title 34-43-1, et seq., *Code of Alabama, 1975*, pursuant to this chapter who practices or administers massage therapy or touch therapy modalities to a patron for compensation.
- (e) *Student Of Massage Therapy*: Any person currently enrolled in an Alabama massage therapy school and/or program approved by the Alabama Board of Massage Therapy.

Section 3. LICENSE REQUIRED

No massage therapy establishment shall be opened to members of the public or operated for any other purpose unless all of the following have been obtained:

1. The owner or other person in charge shall first have obtained an establishment license from the State of Alabama Board of Massage Therapy; and
2. The owner or other person in charge has obtained a massage therapist license granted by the State of Alabama Board of Massage Therapy; and
3. The owner or other person in charge has obtained a business license from the City of Hoover as required by City of Hoover Business License Code, as amended.

Section 4. INVESTIGATION OF APPLICATION; APPROVAL OR DENIAL OF APPLICATION

- (a) The Chief of Police or his or her designee shall conduct an investigation of each applicant to operate as a massage therapy establishment. This investigation shall include, at the discretion of the Chief of Police:
 1. A background check;
 2. An interview with the owner and all employees listed on the affidavit; and

3. On-site inspection of the premises to be used as a massage therapy establishment.
- (b) Upon completion of the investigation, the findings of the investigation shall be attached to the application for consideration. The Chief of Police, or his or her designee, shall approve or deny any application for a massage therapy establishment.
- (c) If the Chief of Police, or his or her designee, denies the application, the applicant has thirty (30) days to appeal this denial to the City Council.

Section 5. EXCEPTIONS

This Ordinance shall not apply to hospitals, nursing homes, or to any physician, osteopath, chiropractor, physical therapist, or person of similarly licensed status, nor shall the same apply to any person administering therapy prescribed by a medical doctor to be administered to any person.

Section 6. REVOCATION AND SUSPENSION

Any license issued hereunder by the City may be revoked or suspended by the City upon the violation of any section, requirement, or provision of this article by the licensee or by any agent or employee of the licensee, provided that prior to revocation, the licensee shall first be notified of said violation and be afforded a hearing before the governing body. Written notice of any violation hereunder, and any hearing thereon before the governing body may be given to any licensee by delivering said notice by hand to the licensee, or in the licensee's absence, to any adult person employed at the licensed premises or by depositing said notice, postage prepaid, in the United States mail and addressed to the licensee at the licensed premises, not less than ten (10) days prior to such hearing before the governing body.

In the event of any revocation of a license for the operation of a massage therapy establishment in accordance with this section, said licensee shall not be entitled to the issuance of a subsequent license for the operation of a massage therapy establishment in the City of Hoover within twelve (12) months following the date of said revocation.

Section 7. COMPLIANCE WITH HEALTH AND SANITARY REQUIREMENTS, RULES AND REGULATIONS

Any massage therapy establishment licensed under the provisions of this article shall, at all times, comply with all health regulations, rules and requirements, as now or hereafter promulgated by the Jefferson County Department of Health and the Alabama Board of Massage Therapy.

Any massage therapy establishment approved under this Ordinance shall, during all hours of operation, make the establishment's records available and open to inspection by the representative of the state and/or county health department for the purpose of assuring compliance with all regulations, rules, and requirements of the health department.

Section 8. INSPECTION OF PREMISES

Any premises used for the purpose of a massage therapy establishment shall, during all hours of operation, be made open and available to inspection by the Jefferson County Health Department, the Alabama Board of Massage Therapy and the City of Hoover Police Department for the purposes of assuring compliance with the requirements of the Jefferson County Department of Health and with the requirements of this article.

Section 9. EMPLOYEES

- (a) No applicant for a license to conduct or operate a massage therapy establishment shall be granted the same unless such persons shall first present to the Hoover Police Chief or his designee the following:
 - 1. An affidavit listing the name of all employees to be employed on the premises at the commencement of the business; and
 - 2. Prior to the annual renewal of the City's business license for said business, an affidavit listing the name of all employees presently employed on the premises shall be presented;
 - 3. A copy of the State of Alabama Board of Massage Therapy license for each massage therapist to be employed on the premises at the commencement of the business;
 - 4. A certificate of enrollment of any student of massage therapy training in the massage therapy establishment from a massage therapy school and/or program that is approved by the Alabama Board of Massage Therapy.
- (b) Any massage therapist of any massage therapy establishment shall, at all times while on duty or working, be able to readily provide a copy of the State of Alabama Board of Massage Therapy license.

Section 10. MASSAGE THERAPY ESTABLISHMENT NOT TO BE USED AS A DORMITORY

No massage therapy establishment shall be used as a dormitory or place of sleep, nor shall any licensee under this article permit any massage therapy establishment to be so used.

Section 11. TREATMENT

- (a) The private parts of all patrons must, at all times, be covered by towels, clothes, or undergarments when in the presence of employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.
- (b) No massage shall be administered or applied by any massage therapist in any massage therapy establishment, except in or upon the premise where a license is regularly displayed, and at the location designated for the operation of said massage therapy establishment in said license.
- (c) No massage therapist, any employee, or attendant in any massage therapy establishment shall apply or administer any massage or other treatment to any person behind locked doors.

Section 12. SIGN TO BE DISPLAYED; ADVERTISING

- (a) Every massage therapy establishment shall display a legible sign not larger than permitted by the Zoning Ordinance of the City of Hoover, upon which sign words “licensed massage therapist” shall conspicuously appear thereon. Said sign shall contain letters no less than three inches (3”) in height and shall be displayed in such a manner that the words “licensed massage therapist” may be readily observed or read by persons upon entering the premises occupied by any massage therapy establishment. No massage therapy establishment shall operate under any name or conduct its operation under any designation not specified in its license issued by the City of Hoover in accordance with this ordinance.
- (b) Any massage therapy establishment approved under this Ordinance shall be prohibited from advertising on any pornographic or escort service website.

Section 13. CLEANLINESS, DRESS OF EMPLOYEES, APPLIANCES, FURNISHINGS AND MATERIALS

- (a) No towels, wash cloths, or other linen items shall come in contact with the body or any part thereof of any customer or patron at a massage therapy establishment that has not been boiled and laundered since last used; and
- (b) Every person applying or administering massages shall cleanse his or her hands thoroughly by washing same with soap and hot water before attending or massaging any person; and
- (c) Any person while applying or administering massages shall be clothed from shoulders to the knees by a robe, smock, or other opaque apparel so that the patron or customer shall be protected from bodily contact with the person applying or administering the massage except for the hands and arms of said person applying or administering said massage; and
- (d) Any massage therapy establishment licensed pursuant to this Ordinance shall be equipped with running hot and cold water, and with all appliances, furnishings and materials as may be necessary to enable persons employed in and about said massage therapy establishment to comply with the provisions of this Ordinance.

Section 14. HOURS OF OPERATION; TAXES

- (a) A massage therapy establishment may only operate between the hours of 7:00AM and 8:00 PM. Services must be concluded and no clients may be on the premises after 8:00PM. Employees of the massage therapy establishment may remain on the premises after 8:00PM to conduct other work, including, but not limited to, maintaining the facility, cleaning, and bookkeeping.
- (b) Each massage therapist establishment and massage therapist approved under this ordinance shall ensure all license fees are paid as provided in Chapter 8 of the Code of Ordinances of the City of Hoover, and each applicant licensed under this ordinance shall ensure all taxes are paid as required in Chapter 14 of the Code of Ordinances of the City of Hoover. Failure to pay as provided shall be a violation of this ordinance.

Section 15. PENALTIES.

- (a) It shall be unlawful to violate any of the terms and provisions of this Ordinance. Any person, firm or corporation violating any of the said terms and provision of this Ordinance shall upon conviction, be punished in accordance with Title 11-45-9, Code of Alabama, 1975, for a misdemeanor violation for each such offense. Each day any violation of this Ordinance shall constitute a separate offense.
- (b) Any massage therapy establishment approved under this Ordinance who is found in violation of this Ordinance, any county ordinance or regulation, any state law, or any other rule or regulation governing massage therapy establishments may have its business license suspended or revoked as provided in Section 8-37 of the Code of Ordinances of the City of Hoover.
- (c) Nothing contained herein shall limit or otherwise restrict the right of the City of Hoover to seek all available remedies to which it is entitled at law.

Section 16. SEVERABILITY CLAUSE.

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of same shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 17. REPEALER CLAUSE.

Any Ordinance heretofore adopted by the City Council of the City of Hoover, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

Section 18. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon its passage and approval by the Council and the Mayor of the City of Hoover, Alabama.

ADOPTED this the 21st day of February, 2022.

APPROVED BY:

John B. Lyda, Council President

Frank V. Brocato, Mayor

ATTESTED BY:

Wendy Dickerson, City Clerk