

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLY SPRINGS, GEORGIA, AS AMENDED; TO AMEND CHAPTER 22 – BUSINESSES, ARTICLE IX - MASSAGE THERAPY PROFESSION - BODYWORK THERAPISTS AND BODYWORK THERAPY ESTABLISHMENTS; AND ARTICLE X - RESERVED; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The Council of the City of Holly Springs hereby ordains that:

Section 1. That The Code of the City of Holly Springs, Georgia; Chapter 22 Businesses, Articles IX, Massage Therapy Profession—Bodywork Therapists and Bodywork Therapy Establishments and X—Reserved be deleted in their entirety and replaced as follows:

ARTICLE IX. - BODYWORK THERAPISTS AND BODYWORK THERAPY ESTABLISHMENTS

Sec. 22-260. - Findings; public purpose.

The mayor and city council find that the general assembly has adopted O.C.G.A. § 43-24A-1, et seq. the "Georgia Massage Therapy Practice Act," which imposes licensing requirements on massage therapists. The Georgia Massage Therapy Practice Act and this article seek to clearly differentiate between the therapeutic and beneficial services of massage therapists, licensed by the Georgia Board of Massage Therapy, and other types of bodywork and massage businesses that are, in most instances, operated by persons who are not licensed by the Georgia Board of Massage Therapy. In fact, the Georgia Massage Therapy Practice Act does not impose any requirements upon those persons or establishments in the business of providing bodywork therapy.

The mayor and city council find that it is in the best interests of the health, welfare, safety and morals of the community to provide for the regulation of bodywork therapists and bodywork therapy establishments. Based upon research and the experience of other communities and municipalities, the mayor and city council find that certain bodywork therapy establishments beget and degenerate into undesirable community conditions including, but not limited to, depression of property values in the surrounding neighborhood, increased expenditures for law enforcement personnel to preserve law and order, increased burden on the judicial system, and acceleration of community blight by the concentration of such establishments in particular areas. Accordingly, it is in the best interests of the health, welfare, safety and morals of the community to enact regulations to reduce the adverse impacts of bodywork therapy establishments.

However, the mayor and city council also find that the outright prohibition of such establishments could improperly infringe upon certain constitutional rights of those wishing to operate licensed establishments. The mayor and city council find that qualified bodywork therapists have received extensive training to provide bodywork therapy that has been proven to be therapeutic; however, regulations are necessary to protect the public from unqualified practitioners. The mayor and city council find that it is in the best interests of the public to set

guidelines and procedures for those who seek to practice bodywork therapy; to promote high standards of professional performance for those practicing bodywork therapy; and to protect the public from unprofessional conduct by persons licensed to practice bodywork therapy.

This article seeks to clearly differentiate between the therapeutic and beneficial services of bodywork therapists, and other types of bodywork and massage businesses that are, in most instances, operated by persons who have little or no formal training in bodywork therapy, and are commercial operations for illegal sexually oriented services. The mayor and city council find that state licensed massage therapists have received extensive training to provide massage therapy that has been proven to be therapeutic; however, regulations are necessary to protect the public from unqualified practitioners. Therefore, the purpose of this article is to differentiate from massage therapy and reasonably regulate bodywork therapy and bodywork therapy establishments in a manner that serves the legitimate governmental interests of reducing criminal activity, protecting property values, and providing for safe and sanitary conditions without unreasonably infringing upon the protected rights of licensed bodywork therapy establishments and their patrons.

Sec. 22-261. - Definitions.

The following definitions are to clarify terms found in this article. Terms in this article that are not defined herewith shall be defined by the customary dictionary definition. If the term cannot be found or if there is no logical nexus between the term in this article and a dictionary, the police chief shall seek to provide a suitable definition.

Advertise: The act or practice of calling public attention to one's service by the issuing of or causing to be distributed any card, sign, or other device or causing or permitting any sign or marking on or in any building or structure, or in any newspaper, magazine, or directory, or announcement on radio, or announcement or display on television, computer network, or electronic or telephonic medium.

Asian bodywork therapy: The treatment of human body, mind, emotions, spirit, and energy field using traditional Asian techniques and treatment strategies based on principles of Chinese medicine for the purpose of promoting, maintaining, and restoring health.

Asian bodywork therapist: A person providing Asian bodywork therapy who has completed minimum training as set by American Organization for Bodywork Therapies of Asia, and/or completion of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) Asian bodywork therapy certification exam.

Board: The Georgia Board of Massage Therapy.

Business name: The name under which the owner applies for an establishment license to provide massage or bodywork therapy.

Bodywork therapist: One who engages in the practice of a bodywork therapy discipline(s).

Bodywork therapy: A general term that refers to a group of body-based approaches to treatment that emphasize manipulation and realignment of the body's structure in order to improve its function as well as the client's mental outlook. These therapies typically combine a relatively passive phase, in which the client receives deep-tissue bodywork or postural correction from an experienced instructor or practitioner, and a more active period of movement education, in which the client practices sitting, standing, and moving about with better alignment of the body and greater ease of motion. Bodywork therapy may include, but is not limited to, Asian bodywork

therapy, polarity therapy, reflexology, and structural integration. Bodywork therapies are not regulated in the Georgia Massage Therapy Practice Act. Persons operating under the term of bodywork therapy may not advertise or operate under the term of massage therapist unless a Georgia massage therapist active state license has been issued in their name. Bodywork therapy shall not include a diagnosis, service or procedure normally provided by a doctor of medicine, doctor of chiropractic, or doctor of podiatry, nor shall it apply to massage therapists, athletic trainers, technicians, or physical therapists who act by prescription or under the supervision of an authorized licensee to practice medicine or surgery, approved by the Georgia Composite Medical Board or the Georgia Secretary of State Professional Licensing Boards Division. See section 22-262.

Bodywork therapy establishment: Any business, conducted in whatever form, where one or more bodywork therapists perform bodywork therapy on a site or premises, or portion thereof, for compensation. Bodywork therapy establishments shall not include any establishment exempted by section 22-289 of this article.

City: The City of Holly Springs, Georgia.

Employee: Any person over 18 years of age, other than a massage therapist, who renders any service in connection with the operation of a massage or bodywork therapy business and receives compensation from the operator of the business.

Good moral character: A person is of good moral character according to this article if that person has not been convicted of a drug-related or alcohol-related felony or sex-related crime in the past five years.

Governing authority: The governing authority of the City of Holly Springs, Georgia.

License, Active State Massage Therapy: A valid and current certificate of registration issued by the Georgia Board of Massage Therapy. Pending status is not active status and is not included under this definition.

License, bodywork therapist: The certificate issued by the city that illustrates compliance with this article.

License, bodywork therapy establishment: The certificate issued by the city that illustrates compliance with this article.

Licensee: Any person holding a business establishment license issued hereunder.

Massage therapist: A person holding an active state massage therapy license, issued by the Georgia Board of Massage Therapy, who administers massage or massage therapy for compensation. Pending status is not active status and shall not be included under this definition. Bodywork therapists without an active state massage therapy license are not included in this definition.

Massage or massage therapy: Massage therapy means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the body in which the primary intent is to enhance or restore health and well-being. The term includes complementary methods, including, without limitation, the external application of water, superficial heat, superficial cold, lubricants, salt scrubs, or other topical preparations and the use of commercially available electromechanical devices that do not require the use of transcutaneous electrodes and that mimic or enhance the actions possible by the hands. The term also includes evaluation by the

state-licensed massage therapist to determine whether massage therapy is appropriate or contraindicated, or whether referral to another health care provider is appropriate. Massage therapy shall not include the use of ultrasound, fluidotherapy, laser, or other deep thermal modalities. Massage therapy shall not include a diagnosis, service or procedure normally provided by a Doctor of Medicine, Doctor of Chiropractic, or Doctor of Podiatry, nor shall it apply to athletic trainers, technicians, or physical therapists who act by prescription or under the supervision of an authorized licensee to practice medicine or surgery, approved by the Georgia Composite Medical Board or the Georgia Secretary of State Professional Licensing Boards Division. Massage therapy shall not include any conduct or activity that is otherwise prohibited by state, federal or local law. O.C.G.A. § 43-24A-3

Massage therapy establishment: Any business, conducted in whatever form, where one or more massage therapists perform massage therapy on a site or premises, or portion thereof, wherein a massage therapist with an active state license practices massage for compensation. Massage therapy establishments shall not include any establishment exempted by section 22-289 of this article.

Minor: For the purposes of this article, any person who has not attained the age of 18 years.

Operator: Manager or other natural person principally in charge of an establishment.

Out-call bodywork therapy service: Bodywork therapy service provided by a bodywork therapist at a location designated by the patron or the bodywork therapist, other than at the designated approved bodywork therapy establishment. Services may not be performed at the place of residence of the bodywork therapist.

Owner or owners: The proprietor if a sole proprietorship, all partners (general and limited) if a partnership, or all officers, directors and persons holding ten percent or more of the outstanding shares if a corporation.

Patron: Any person over 18 years of age who receives bodywork therapy under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore.

Person: A natural person only.

Polarity therapy: The treatment of the human body, mind, emotions, spirit, and energy fields for the purpose of promoting, maintaining, and restoring health.

Polarity therapist: A person who has completed minimum training requirements as established by the American Polarity Therapy Association®, and/or designation as a registered polarity practitioner.

Reflexology: The application of alternating pressure applied to the reflexes within the reflex maps of the body located on the feet, hands, and outer ears.

Reflexologist: A person who has completed minimum training as established by the American Reflexology Certification Board, and/or passed the American Reflexology Certification Exam.

Sexually oriented business: Any adult business, including but not limited to, a sex parlor, massage parlor, adult bookstore, adult movie theater, adult video store, adult motel, spa or sauna

alluding to sexual content or services, or other commercial business that offer items or services to provide sexual stimulation or gratification.

Structural integration: The restoration of postural balance and functional ease by systematically aligning and integrating the human body in gravity. Structural integrators work through manipulation of the connective tissue matrix, enhancement of the client's awareness, and education.

Structural integrator: A person who has completed minimum training, as set by the International Association of Structural Integrators®, membership in or qualification for membership in IASI, and/or completion of the certification exam for structural integrators (SM).

Sec. 22-262. - Bodywork therapy industries and other practices.

- (a) The Georgia Massage Therapy Practice Act, O.C.G.A. § 43-24A-1 et seq., exempts from regulation certain therapeutic industries, which for the purposes of this code are known as bodywork therapy. All industries exempt from regulation of the Georgia Massage Therapy Practice Act, as listed in O.C.G.A § 43-24A-19, now and as may be amended in the future, shall be required to apply for and receive a bodywork therapy license from the City of Holly Springs to operate in the city.
- (b) Examples of bodywork therapy shall include, but not be limited to:
 - (1) A person licensed, registered, or certified under any other chapter or article under O.C.G.A. tit. 43 while engaged in the professional or trade practices properly conducted under authority of such other licensing laws, provided that such person shall not use the title of massage therapist;
 - (2) A person pursuing a course of study leading to a degree or certificate as a massage therapist in an educational program recognized by the board, if such person is designated by title indicating student status and is fulfilling uncompensated work experiences required for the attainment of the degree or certificate;
 - (3) A nonresident person rendering massage therapy up to 60 days during a 12-month period for treatment of a temporary sojourner only, provided that such nonresident massage therapist holds a license, registration, or certification from another state, jurisdiction, or country if the requirements as determined by the board for licensure are substantially equal to the requirements contained in this chapter or provided that such nonresident massage therapist is currently nationally certified in therapeutic massage and bodywork;
 - (4) *Reflexology.* A person who restricts his or her practice to the manipulation of the soft tissue of the human body to hands, feet, or ears who does not have the client disrobe and does not hold himself or herself out as a massage therapist;
 - (5) *Hellerwork®*, *Rolfing®* *structural integration*, *structural integration*. A person who uses touch and movement education to effect change in the structure of the body while engaged in the practice of structural integration, provided that he or she is a member of, or whose training would qualify for membership in, the International Association of Structural Integrators and provided that his or her services are not designated or implied to be massage or massage therapy;

- (6) A person who uses touch to affect the energy systems, polarity, acupoints, or Qi meridians, also known as channels of energy, of the human body while engaged within the scope of practice of a profession with established standards and ethics, provided that his or her services are not designated or implied to be massage or massage therapy:

Asian bodywork therapy

Acupressure

Amma

AMMA Therapy®

Chi Nei Tsang

Craniosacral therapy

Jin Shin

Jin Shin Do® bodymind acupressure

Jin Shin Jitsu

Jin Shin Jyutsu®

Medical Qigong

Nuad Bo 'Rarn (traditional Thai bodywork)

Okazaki restorative therapy

Polarity

Polarity therapy

Polarity bodywork therapy

Qigong

Reiki

Shiatsu (all forms including, but not limited to, Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Macrobiotic Shiatsu, Ohashiatsu®, Quantum Shiatsu, Zen Shiatsu)

Shiatsu Anma therapy

Tuina

Sec. 22-263. – *Reserved.*

Sec. 22-264. - Bodywork therapy licensing process; application requirements.

- (a) *Bodywork therapy license required.* No person shall engage in bodywork therapy without first obtaining a license from the city.
- (b) *Bodywork therapist license process.* Any person desiring to engage in the business, trade or profession of bodywork therapist, or a bodywork therapy establishment shall provide to the city the following:
 - (1) File an application for a bodywork license with the city police department.
 - (2) Obtain approval of the location bodywork therapy establishment through the zoning or conditional use process. Upon approval of the location for the bodywork therapy establishment, said applicant may then apply for and receive an occupational tax license to operate. Upon the issuance of the occupational tax license, the bodywork establishment license as detailed in this article shall also be issued.
 - (3) Any corporation, limited liability company, partnership or other business entity may employ bodywork therapists, provided that each bodywork therapist shall obtain a bodywork therapy license, and the corporation, limited liability company, partnership or other business entity must obtain the approval of the conditional use permit for the location to provide the bodywork therapy.
- (c) *Bodywork therapist license application.* All bodywork therapists must make application for a license and provide the following information:
 - (1) Applicant must provide evidence of certification by a nationally recognized organization, and/or evidence of successful completion of a psychometrically valid certification exam that tests for entry level competence in the bodywork profession;
 - (2) *Personal information.*
 - a. Name,
 - b. Date of birth,
 - c. Social Security Number,
 - d. Gender,
 - e. Home address,
 - f. Home telephone number,
 - g. Valid Georgia Driver's License or an official state sanctioned identification card,
 - h. Current two-inch by two-inch photograph of the applicant, taken within six months of application,
 - i. Address of place of employment,
 - j. Telephone number of place of employment;
 - (3) The applicant, including each owner, operator, and employee, must be fingerprinted by the Holly Springs Police Department. Fingerprints must be made at least 15 days prior to issuance of any license in order to allow for the investigation of the applicant;

- (4) The applicant, including each owner, operator, and employee, shall provide a signed and notarized consent on forms prescribed by the Georgia Crime Information Center authorizing the release of each such person's criminal records to the Holly Springs Police Department;
- (5) If applicant has had a bodywork therapy license, massage therapy license or similar type of license denied, revoked or suspended, the applicant must state the violation that led to the denial, suspension or revocation, the date of the denial, suspension or violation, the disposition, including any fine or sentence imposed, and whether or not the terms of the disposition have been completed;
- (6) The applicant must furnish a list of at least three character witnesses providing their names, addresses and telephone numbers;
- (7) The applicant must furnish the name, address and telephone number of the applicant's previous employers for the last five years immediately preceding the date of application;
- (8) If applicant has been convicted of any crime involving good moral character in the past five years, applicant must state a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed must be furnished;
- (9) The applicant must provide a copy of the insurance policy covering property damage and bodily injury liability;
- (10) The applicant must be a legal resident of the United States;
- (11) Changes thereto shall be filed with said department within three days from the date the change becomes effective;

Sec. 22-264. - Qualifications.

Each applicant, operator, and all employees hereunder, prior to making application for a business license must have the following qualifications:

- (a) All bodywork therapists must provide evidence of certification by a nationally recognized organization, and/or evidence of successful completion of a psychometrically valid certification exam that tests for entry level competence in the bodywork profession.
- (b) The applicant, operator, and all employees must be of good moral character, and in case the applicant is a corporation, it must be created in or domesticated by the laws of the State of Georgia.

Sec. 22-266. - Renewal of business license.

- (a) Occupation tax licenses for bodywork therapy establishments shall be assessed on an annual basis and any changes from the originally approved licensing shall be stated and submitted with the occupation tax renewal. Should said changes violate the provisions of this article, the bodywork therapy establishment license shall be revoked in accordance with section 22-275.
- (b) At the time of application for renewal, the applicant must provide a current copy of any bodywork therapy certifications issued by a nationally recognized organization.

- (c) Each owner, operator, and employee shall provide a signed and notarized consent on forms prescribed by the Georgia Crime Information Center authorizing the release of each such person's criminal records to the Holly Springs Police Department;
- (d) Applicant must provide a copy of the current insurance policy covering property damage and bodily injury liability.

Sec. 22-267. - Compliance with zoning ordinance.

- (a) A bodywork therapy establishment shall be located in a zone(s) as determined by the city council. Should a proposed bodywork therapy establishment location require a rezoning, map amendment, or conditional use permit from the city council, all licensing requirements as stipulated in this article must be satisfied prior to making application.
- (b) No licensee under this article shall change the location of the business without applying for and receiving a new license for such location. Compliance with subsection (a) of this section shall be required for said license.
- (c) All bodywork therapy establishments shall be in compliance with article 5, section 5.4-10A of the City of Holly Springs Zoning Ordinance.

Sec. 22-268. - Outcall massage services; practice at place of residence prohibited.

- (a) Any bodywork therapist who has complied with all applicable provisions of this article may provide out-call bodywork therapy services. Such bodywork therapist shall maintain his/her permits upon their persons; or within their immediate reach, at all times while performing bodywork therapy and shall display these upon the request of any client, police officer or code compliance officer.
- (b) The licensee is prohibited from engaging in the practice of bodywork therapy from his/her place of residence; however, a business office will be allowed at the place of residence for the purposes of recordkeeping and other clerical duties.
- (c) Any special circumstances that may warrant practicing at the place of residence of a bodywork therapist, such as blindness, a disability that prevents travel to an office, or care of ill family members, shall be submitted to agencies and authorities as directed by the city.

Sec. 22-269. - Bodywork therapists and bodywork therapy establishments license application fees.

- (a) A licensing application fee, as established and adopted by the mayor and city council with resolution from time to time shall be paid to the city at the time of filing each application.
- (b) If the application is submitted in proper form and is approved by the police chief, or designee, then the business license department is authorized to issue an occupation tax license to the applicant upon the payment of any occupation taxes due and in accordance with article II; however, all zoning requirements, if any, must be met prior to the issuance of the occupation tax permit.

Sec. 22-270. - Authority to train personnel.

Any applicant granted a business license hereunder shall have the authority to train bodywork therapists under their supervision in their studio or establishment provided that the licensee remains in full compliance with the requirements of this Code.

Sec. 22-271. - Changes in ownership and/or employees.

Any changes in ownership and/or employees shall comply with the following:

- (a) The city shall be notified immediately, within three days, of any changes in ownership and/or partners and/or employees of the applicant.
- (b) Upon the change of ownership for a bodywork therapy establishment, the establishment license issued under the former ownership shall be null and void.
- (c) Any change in ownership and/or employees shall comply with the provisions of this article.

Sec. 22-272. - Transfer of business license.

- (a) No bodywork therapist business license issued pursuant to this article shall be transferred, altered in name, or assigned in any manner, whether by operation of law or otherwise, from location to location or from person to person, except that any person possessing a valid bodywork therapist business license shall be able to move from one employer to another without filing a new application or paying a new fee, so long as the permit holder notifies the city of the change in his/her employment within three business days of their move date to the new location and the new location is in compliance with all requirements of this article.
- (b) No bodywork therapy establishment license may be sold, transferred or assigned by a licensee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such business license and such business license shall thereafter be null and void; provided and excepting, however, that if the licensee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such business license, and in such case, the business license upon notification to the city, shall be placed in the name of the surviving partner. A bodywork therapy establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of the business license, or any stock not issued at the time of the granting of a business license is thereafter issued.

Sec. 22-273. - Advertising.

- (a) It is a violation of this article for any person or business to advertise bodywork therapy services unless such services are provided by a person who holds a valid business license under this article in the classification so advertised.
- (b) It shall be a violation of this article for any person to advertise:
 - (1) Bodywork therapy services combined with any sexually oriented business, including escort or dating services or adult entertainment.
 - (2) Bodywork therapy services combined with sauna, health spas, or day spas unless only a bodywork therapist holding a valid business license under this article is performing legitimate treatment.
- (c) It shall be unlawful for a person or business entity or its employees, agents, or representatives to practice any of the named bodywork therapy practices or to use in connection with its name or business activity the terms structural integrator, structural

integration, Asian bodywork therapy or any of its practices, reflexology, polarity therapy or any other designation implying directly or indirectly that the person is licensed in any of the licensed bodywork therapy professions unless the license has been issued by the city.

- (d) It shall be a violation of this article for any person to practice under another licensed bodywork therapist with a city issued business license number. O.C.G.A. § 43-24A-15

Sec. 22-274. - Record of treatment to be kept.

- (a) It shall be the duty of any person granted a business license under this article to maintain accurate records with the following information:
 - (1) Names and addresses of the persons receiving treatment;
 - (2) Date and time of treatment;
 - (3) Type of treatment administered;
 - (4) Name of person administering the treatment.
- (b) No bodywork therapy shall be performed by any bodywork therapist in the home of any client or in any place except for the place of business of the licensee hereunder, unless accurate records are maintained at the place of business with the following information:
 - (1) Name and addresses of persons receiving treatment;
 - (2) Date and time of treatment;
 - (3) Type of treatment administered;
 - (4) Name of person administering the treatment;
 - (5) Time each treatment was completed.
- (c) The records shall be subject to inspection at any time by any duly authorized city agent or police officer.
- (d) The records of any person receiving treatment shall, at all times, remain confidential.
- (e) Records shall be kept for a minimum of three years.

Sec. 22-275. - Grounds for suspension or revocation of business license; notice; hearings; refund.

- (a) No business license which has been issued or which may hereafter be issued, by the city to any licensee hereunder, shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing before the municipal court and upon a prior five-day written notice to the holder of the business license of the time, place and purpose of the hearing and statement of the charge upon which the hearing shall be held. Penalties shall be assessed in accordance with section 22-288.
- (b) "Due cause" for the suspension or revocation of the business license shall consist of the violation of any laws or ordinances regulating the businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating the businesses, in accordance with section 22-279.
- (c) The city manager or police chief is delegated the authority to suspend any business license hereunder for due cause in any emergency situation; and said suspension may be made effective immediately and remain in force until the next session of the municipal court.

- (d) When a business license is so revoked, the licensing, business, and occupation tax fees shall not be refunded.

Sec. 22-276. - Additional remedies.

In the event any provision of this article has been violated or is being violated, in addition to other remedies, the city through its attorney may institute injunction, mandamus, or other appropriate action or proceeding to prevent or abate such violation.

Sec. 22-277. - Patronage of massage establishments by minors.

- (a) *Restricted.* It is unlawful for any person under the age of 18 to patronize any bodywork therapy establishment unless that person carries with him or her, at the time of the patronage, a written order directing the treatment to be given signed by a licensed physician and the minor's legal guardian accompanies him or her to the establishment and remains during the course of treatment.
- (b) *Duty of operator.* It shall be the duty of the operator of a bodywork establishment to determine the age of the persons patronizing the establishment and a violation of this section shall be grounds for revocation of the business license of the bodywork therapy establishment in accordance with section 22-275 of this article.

Sec. 22-278. - Hours of operation.

No bodywork therapist shall engage in the business or profession except within and between the hours of 6:00 a.m. and 10:00 p.m. eastern standard time; nor shall any operator of a bodywork therapy establishment operate the same except within and between the aforesaid hours.

Sec. 22-279. - Signed affidavit to be filed with business license application.

A signed and notarized affidavit stating the following shall be filed with any business license application:

I, _____, have received and reviewed a copy of Article IX, Bodywork Therapist and Bodywork Therapy Establishments.

Sec. 22-280. - Operating requirements; unlawful acts and restrictions.

- (a) No bodywork therapist or owner or employee of a bodywork therapy establishment shall manipulate, fondle or handle the sexual organs of any person.
- (b) The premises shall be kept clean, neat, and sanitary and shall comply with all sanitary and health requirements of the state, county, and city.
- (c) No alcoholic beverages shall be sold or provided to customers on premises.
- (d) It shall be unlawful for any stand-alone bodywork therapy establishments (those establishments not located within a professional's office, e.g., chiropractor, doctor, etc.) to perform bodywork therapy within any cubicle, room, booth, or any area within the establishment, which is fitted with a door capable of being locked. Exterior doors may have locks, but such exterior doors shall not be locked while the bodywork establishment is open for business or while any bodywork therapy is being performed therein.

- (e) It shall be unlawful for any person owning, operating, or managing a bodywork therapy establishment to knowingly cause, allow, or permit in or about such bodywork therapy establishment any agent, employee or other person under his/her supervision or control to perform any acts prohibited under this section.
- (f) No bodywork therapist, owner, or employee shall wear swimsuits, lingerie, or similar garment or garments, which expose areas described in subsection (a) of this section.
- (g) No owner, operator, responsible managing employee, manager or licensee in charge of or in control of a bodywork therapy establishment shall not permit any employee to be on the premises of a bodywork therapy establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a bodywork therapy business unless the employee is fully covered from a point not exceed four inches above the center of the kneecap to the base of the neck. The covering will be of an opaque material and will be maintained in a clean and sanitary condition.
- (h) No bodywork therapist shall be on the premises of a bodywork therapy establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a bodywork therapy establishment, unless the bodywork therapist is fully covered from a point not to exceed four inches above the center of the kneecap to the base of the neck. For the purpose of this section, the covering will be of an opaque material and will be maintained in a clean and sanitary condition.
- (i) All stand-alone bodywork therapy establishments (those establishments not located within a professional's office, e.g., chiropractor, doctor, etc.) which apply for a business license, shall provide a reception area with adequate seating and immediate accessible entry and exit into and from the back office and area where the treatment rooms are located.
- (j) No bodywork therapy establishment shall employ or contract with as a bodywork therapist a person under the age of 18 years or a person not permitted pursuant to this article.
- (k) During normal business hours as listed in this article, no one other than a patient, patient's legal guardian(s), and employees of the bodywork therapy establishment shall be permitted beyond the reception area.
- (l) All bodywork therapy establishments shall designate a natural person to serve as an on-premises operator. The operator shall be principally in charge of the establishment and shall be located on the premises on a regular basis.
- (m) A licensed bodywork therapist must be on the premises of the establishment if a client or patron is in a treatment room.

Sec. 22-281. - Inspection of premises authorized; inspection procedures.

- (a) Upon receipt of an application for a bodywork therapy establishment license, an inspection will be made of the site. Such inspection shall be to confirm that the site is to be utilized for bodywork therapy and that all establishment requirements are in compliance.
- (b) It shall be the duty of the building inspection department through duly authorized agents to inspect bodywork therapy establishments from time to time to determine compliance with this article. Upon showing the proper credentials, the representatives of the city, including police officers, shall be entitled to inspect portions of the bodywork therapy establishment

open to the public to determine compliance with this article, along with all records maintained by such bodywork therapy establishment in regards to patrons served therein.

(c) Inspection procedures are outlined as follows:

- (1) Inspections shall be made at a minimum of not less than one time a year.
- (2) An inspection as outlined in subsection (b) above can be triggered by complaints or random;
- (3) Inspections are to be made at reasonable times, with due regard to the nature of the business to be inspected, without advanced notice to owners or operators;
- (4) Such inspection shall include, but not be limited to, whether the establishment is in compliance with the establishment's operation facilities, building, personnel, public health, safety, and zoning requirements. Records of treatment, current insurance coverage, each active licensed bodywork therapist's certification(s) and the city issued business license(s) shall be reviewed;
- (5) Upon inspection of a bodywork therapy establishment, the operator or owner shall make all records available upon request as regulated by this article;
- (6) It shall be unlawful for any licensee under this article to fail to allow authorized and designated agents of the city access to the premises or to hinder the agent in any manner;
- (7) Should the duly authorized agent discover any violators of this article upon inspection, the agent may grant the bodywork therapy establishment 24 hours to comply with the stipulations of this article, or should said violation(s) be of an egregious nature, or under emergency conditions, the agent shall execute section 22-275 of this article and penalties shall be assessed in accordance with section 22-289;
- (8) Should the bodywork therapy establishment fail to comply with the stipulations of this article within 24 hours after notice of given by the duly authorized agent, said establishment shall be penalized in accordance with sections 22-275 and 22-289 of this article.

Sec. 22-282. - Complaints.

Any complaints on one or more of the following grounds regarding a licensed bodywork therapist shall be filed with the city business license office:

- (a) The licensee is guilty of fraud in the practice of bodywork therapy, or fraud or deceit in being certified and/or licensed to practice bodywork therapy.
- (b) The licensee is engaged in the practice of bodywork therapy under a false or assumed name or is impersonating another practitioner of a like or different name.
- (c) The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or chemical or organic stimulants to such an extent that the licensee is unable to perform his/her duties.
- (d) The licensee is guilty of fraudulent, false, misleading, or deceptive advertising or practices.

- (e) The licensee is charged with, has been convicted of, or has plead guilty or nolo contendere to, a felony or a misdemeanor involving moral turpitude or to any charge of a lascivious nature.
- (f) The original application or renewal thereof contains materially false information or the applicant has deliberately sought to falsify information contained therein.
- (g) The licensee has exhibited conduct, which could constitute a violation of law.

Sec. 22-283. - Facilities.

All bodywork therapy establishment facilities shall comply with article 5, section 5.4-10A of the Zoning Ordinance.

Sec. 22-284. - Posting of business license.

Every person obtaining a bodywork therapy establishment license under this article shall display such certificate in a prominent and public area of the establishment.

Sec. 22-285. - License to include only licensee.

- (a) Each business license issued to an individual bodywork therapist shall only include that licensee to which the license is issued.
- (b) No one may practice as a bodywork therapist under another licensed bodywork therapist's business license.

Sec. 22-286. - Financial responsibility and insurance coverage.

Each bodywork therapy establishment shall maintain property damage and bodily injury liability insurance coverage. Individual massage therapists shall maintain bodily injury liability insurance coverage. The original or a copy of such policy shall be available on the premises of the establishment. A copy of the policy must be provided at the time of application.

Sec. 22-287. - Reapplication after denial or revocation of business license.

Any licensee under this article whose business license application is denied or business license is revoked shall be disqualified from reapplying for such license for 12 months immediately following the revocation or denial.

Sec. 22-288. - Appeal of business license denial or revocation.

- (a) Upon denial or revocation of a business license pursuant to this article, the applicant may appeal in writing to the mayor and city council within 30 days of denial.
- (b) The mayor and city council may consider such appeal within 60 days of the date of receipt of written appeal. Should mayor and city council choose not to consider said appeal, the revocation or denial shall stand.

Sec. 22-289. - Unlawful operation declared nuisance; penalty.

- (a) Any bodywork therapy establishment operated, conducted or maintained contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance. The city may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, revocation, or enjoinder thereof in accordance with section 22-275 and in the manner provided by law. It shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such bodywork therapy

establishment and restrain and enjoin any person from operating, conducting or maintaining a bodywork therapy establishment contrary to the provisions of this article.

- (b) Any person violating any provision of this article shall be punished in accordance with chapter 1, section 1-12 and upon conviction shall be fined for each offense in an amount to be established by the judge of the municipal court.

Sec. 22-290. - Exemptions.

This article shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

- (a) Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state.
- (b) Nurses who are registered under the laws of the state.
- (c) Barbers and cosmetologists who are duly licensed under the laws of the 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 purposes.
- (d) A person duly licensed, registered, or certified in another jurisdiction, state, territory, or a foreign country when incidentally in this state to provide service as part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event with which he or she comes into the state.

Sec. 22-291. - Exceptions.

Nothing in this chapter shall be construed to affect, restrict, or prevent the practice, services, or activities of:

- (1) A person licensed, registered, or certified under any other chapter or article under O.C.G.A. tit. 43 while engaged in professional or trade practices properly conducted under the authority of such other licensing laws, provided that such person shall not use the title of bodywork therapist;
- (2) A person pursuing a course of study leading to a degree or certificate as a bodywork therapist in a nationally recognized educational program, if such person is designated by title indicating student status and is fulfilling uncompensated work experiences required for the attainment of the degree or certificate.

ARTICLE X.—MESSAGE THERAPISTS AND MESSAGE THERAPY ESTABLISHMENTS

Sec. 22-292. - Massage therapy licensing process; application requirements.

Massage therapists and massage therapy establishments. See Article IX for definitions. Any person, operator, or owner desiring to engage in the business, trade or profession of massage therapy or to operate a massage therapy establishment in the city shall complete the following:

- (a) Submit a copy of his or her active state massage therapy license issued by the Georgia Board of Massage Therapy. O.C.G.A. § 43-24A, before engaging in that business trade or profession. Pending status shall not be accepted as active status.

- (b) Submit an occupational tax certificate application and comply with zoning requirements as listed in Section 5.4-30: Massage Therapy Establishments of the Holly Springs Zoning Ordinance.
- (c) Submit current liability insurance coverage for bodily injury, property damage, and professional liability for the massage therapy business.
- (d) Business name shall not include the words “spa establishment,” “massage parlor,” “personal service,” or “adult entertainment.”
- (e) A licensed massage therapist shall be present on the premises when massage therapy is being performed for a client of the massage therapy business.
- (f) Evidence of the state and city licenses to practice massage therapy shall be posted on the premises.
- (g) A criminal background check shall be required for any employee, independent contractor, or other person working on the premises of a massage therapy business who is not a licensed massage therapist. No person who has a conviction for a felony or any sexual offense listed in O.C.G.A. Title 16, Chapter 6, including any plea of no lo contendere entered to such charge or the affording of first offender treatment to any such charge, may be employed by the massage therapy business.
- (h) The current and active state massage therapy license shall be submitted upon annual business license renewal.

Sec. 22-293-22-308. - *Reserved.*

Section 2. If any Section, sub-section, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and he does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 3. This Ordinance shall become effective immediately upon approval by the Mayor and Council.

SO ORDAINED, this 18th day of April, 2022.

CITY OF HOLLY SPRINGS

Steven W. Miller, Mayor

Attest:

Karen Norred, City Clerk
(Seal)