

ORDINANCE 2022-01

**MASSAGE/SPA ESTABLISHMENTS
CITY OF DALLAS, GEORGIA
CHAPER 10 - BUSINESSES
ARTICLE XI, SECTION 10-300 – 10-316**

WHEREAS

The charter of the City of Dallas, Georgia does allow the Mayor and Council to adopt ordinances and/or to amend existing ordinances:

AND

WHEREAS,

The Mayor and Council has the responsibility to provide for the public health, safety and welfare by the control and efficient adoption of Ordinances within the City of Dallas, Georgia which includes the responsibility to provide for a Ordinance concerning massage/spa establishments within the City of Dallas, Georgia;

AND

WHEREAS,

The Mayor and Council of the City of Dallas, Georgia desire to adopt the following addition to Chapter 10, Businesses to add Article XI, Massage/Spa Establishments to Chapter 10 Businesses for the City of Dallas, Georgia:

AND

NOW

THEREFORE,

BE IT ORDAINED by the Mayor and Council of the City of Dallas, Georgia that Chapter 10, Businesses, of the Ordinances of the City of Dallas, Georgia is hereby to add Article XI, Massage/Spa Establishments to Chapter 10 – Businesses is hereby adopted as follows:

ARTICLE XI. MASSAGE/SPA ESTABLISHMENTS

Sec. 10-300. Purpose and intent.

In the interest of protecting the health, safety and welfare of the public as expressed in the Charter, it is the purpose of this article to regulate the operation of massage and spa establishments, and to regulate employees of such establishments who are not licensed as massage therapists by the state, pursuant to the authority expressed in O.C.G.A. § 43-24A-22(a) and the Charter of the City of Dallas, Georgia.

Sec. 10-301. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person, firm, corporation, or other legal entity applying for a license to operate a massage establishment or spa establishment, as defined herein, or a person applying for a work permit, as provided for herein.

Chief Marshal shall be the Chief Marshal of the City of Dallas, Georgia.

City or Mayor and City Council shall be the Mayor and Council of the City of Dallas, Georgia.

Employee means any person who performs any service on the premises of a massage establishment or spa establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, apprentice, trainee, or otherwise.

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 which do not require the use of transcutaneous electrodes and which mimic or enhance the actions possible by the hands; the term also includes determining 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, fluído-therapy, laser, and other methods of deep thermal modalities.

This term shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure when performed by a person who is licensed by the state to practice chiropractic, physical therapy, podiatry or medicine. This term shall not include touching of the scalp or ears while providing a haircut, or touching of the hands or feet while providing a manicure or pedicure, by a person licensed by the Georgia State Board of Cosmetology.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power for the purpose of administering a massage.

Massage establishment means a commercial establishment where any person offers or provides massage. This term shall not include hospitals or other professional health care establishments, facilities, chiropractic offices or businesses separately licensed as such by the state.

Premises means the real property, or portion thereof, upon which the massage establishment or spa establishment is located including, but not limited to, the establishment and the grounds, private walkways, and parking lots and/or parking garages under the ownership or control of the establishment.

Spa establishment means a commercial establishment that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak. This term shall not include the following:

- (a) Hospitals;
- (b) Other professional health care establishments, facilities, or businesses separately licensed as such by the state;
- (c) A commercial establishment licensed by the State of Georgia where a patron disrobes for the purpose of receiving personal services in a manner consistent with the establishment's license.

Specified criminal activity means any of the following specified crimes:

- (a) Illegal gambling.
- (b) Prostitution, keeping a place of prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, sodomy, aggravated sodomy, rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency.
- (c) Obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance.
- (d) Any offense related to any massage establishment or spa establishment, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity.
- (e) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses.
- (f) Any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.
- (g) Ordinance violation relating to the operation of a massage/spa establishment.

State shall mean the State of Georgia.

Sec. 10-302. Penalty.

In addition to the licensee, any person violating any of the provisions of this article and Ordinance may be cited and shall, upon conviction, in the Municipal Court of the City of Dallas, Georgia, be punished as a misdemeanor. The licensee(s) shall be responsible for violations of this article. The violation of the provisions of this article by any person may be enjoined by instituting appropriate proceedings for injunction in the courts of competent jurisdiction of this state. Such actions may be maintained, notwithstanding that other adequate remedies at law may exist. Such actions may be instituted in the name of the City of Dallas, Georgia and/or the Mayor and Council of the City of Dallas, Georgia.

Sec. 10-303. Scope of regulations.

All licenses and work permits issued under this article shall constitute a mere privilege to operate or work at the establishment specified in the license or work permit during the term of the license or work permit only, and shall be subject to all terms and conditions imposed by the city and state.

DIVISION 2. LICENSE

Sec. 10-304. Massage/spa establishment license required; application.

- (a) *Massage/spa establishment license required.* It shall be unlawful for any person or legal entity to operate a massage establishment or a spa establishment in the city without a valid massage/spa establishment license or exemption therefrom.
- (b) *Rules governing those engaged in business prior to article; deadline for application.* All persons already engaging in a business regulated by this article shall file an application in accordance with the terms of this article no later than December 1 of the year in which it is enacted. If the city council shall determine that any

such application filed pursuant to this subsection should be denied, the applicant may continue to operate the business during any appeal process if pursued; provided, however, that at all times during which such applicant continues to operate the business the applicant shall be subject to the regulatory provisions of this article.

- (c) *Application.* An applicant for a massage/spa establishment license shall file in person with the city. The application must be executed by the person primarily responsible for the operation of the establishment, to be the named licensee. If the applicant is a partnership, limited liability company, corporation, or other legal entity, the application must also be executed by an officer, member, partner or shareholder, if applicable, to be a named licensee. Signatures on the application shall be notarized. An application shall be considered complete when it contains the information and/or items required in this subsection,
- (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1, along with a secure and verifiable document as defined by O.C.G.A. § 50-36-2, and, if applicable, proof of lawful presence in the United States. If the applicant is a partnership, limited liability company, corporation, or other legal entity, a signed and sworn affidavit verifying the lawful presence of each person that executes the application on behalf of the applicant, along with a secure and verifiable document and, if applicable, proof of lawful presence in the United States, is required.
 - (3) A signed and sworn affidavit attesting that the applicant either uses the federal work authorization program in accordance with federal regulations or that the applicant employs fewer than 11 people or otherwise does not fall within the requirements of O.C.G.A. § 36-60-6.
 - (4) Current business address and residential mailing address for the applicant.
 - (5) The business name, location, legal description, mailing address, phone number, and hours of operation of the establishment.
 - (6) If the applicant is a sole proprietor, written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
 - (7) If the applicant is not a sole proprietor, then the partnership, limited liability company, corporation, or other legal entity shall submit a complete list of the legal entity's:
 - a. Officers.
 - b. Directors.
 - c. Partners, members, or shareholders (natural persons) holding a ten percent or greater ownership interest in such legal entity, or if there is no shareholder (natural person) with at least a ten percent interest, the ten shareholders with the greatest ownership interest.
 - d. Employee or agent primarily responsible for operation of the massage or spa establishment.
 - e. Written proof of age, in the form of a driver's license or a picture identification document issued by an agency of a state or of the federal government for each person listed in subparts a. through d. above.
 - (8) Names of all individuals having a financial interest in the business. Financial interest shall include guaranteeing a lease obligation.
 - (9) Ten years of work history for the applicant and any person listed in response to subsections (c)7 and (c)8.
 - (10) Ten years of residential history for the applicant and any person listed in response to subsections (c)7 and (c)8.

- (11) A statement of whether the applicant or any person listed in response to subsection (c)7 or (c)8 has been an owner, director, officer, partner, member, employee, or shareholder of a massage establishment or spa establishment that has, (at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (12) A statement of whether the applicant or any person listed in response to subsection (c)7 or (c)8 has been charged with, arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such violation, arrest and/or conviction.
- (13) A statement of whether the applicant or any person listed in response to subsection (c)7 or (c)8 has had their state-issued massage therapy license suspended, revoked or placed on probation, and if so, the state which issued the license, license number, summary of why, and summary of the action taken against the license.
- (14) A sworn and notarized statement of a registered agent who is a resident of Paulding County, Georgia and at least 18 years of age, required to be designated by a licensee to receive any process, notice or demand required or permitted by law or under this article to be served upon the applicant.
- (15) A statement whether the applicant is the owner of the premises wherein the establishment will be operated or the holder of a lease thereon for the period to be covered by the license. If the applicant is a lease holder, a copy of the lease shall be submitted with the license application.
- (16) For every person on the premises who offers, or will offer, services for which a license under O.C.G.A. §§ 43-24A-1, et seq. is required, a copy of the state license for each such person as well as a color photograph, no smaller than two inches by two inches, showing the face, neck, and shoulders of each such person; or, if there are none, a statement certifying that no person on the premises offers, or will offer, services for which said person is required to be licensed by the State of Georgia pursuant to O.C.G.A. §§ 43-24A-1, et seq.
- (17) Executed consent forms authorizing the city to conduct background investigations, including criminal background investigations and fingerprint analysis and investigation, on the applicant and each individual listed in subsections (c)7 and (c)8, unless such individual provides proof of licensure as a massage therapist in Georgia.
- (18) A complete set of fingerprints of the applicant, the operator(s), the owner(s), those individuals listed in subsections (c)(7) and (c)(8), unless he/she provides proof of licensure as a massage therapist in Georgia:
 - a. *Authority.* This subsection is enacted pursuant to O.C.G.A. § 35-3-35(a)(1.2), the Georgia Umbrella Statute entitled "dissemination of information to public agencies, political subdivisions, authorities, and instrumentalities."
 - b. *Fingerprinting required.* An individual seeking to receive a massage/spa establishment license or a massage/spa work permit shall be fingerprinted as a condition of submitting an application for said license or permit. By filing such application, the applicant consents to the city obtaining their criminal history record information (CHRI) from the Georgia Crime Information Center (GCIC) and the Federal Bureau of Investigation (FBI).
 - c. *Access authorized; usage regulations.* The city is hereby authorized to access national criminal history record information pursuant to O.C.G.A. § 35-3-35(a)(1.2).
 1. Information obtained and handled for any purposes pursuant to this subsection shall comply with all state laws and the Federal Privacy Act.

2. No information given as part of the request for a criminal history and no record obtained pursuant to this section may be entered on any database.
 3. No information given or obtained pursuant to this section shall be subject to the provisions of the Georgia Open Records Act.
- d. *Administration; procedures.*
1. Applicant shall provide his/her fingerprints, as prescribed by the city Marshal or his designee.
- (19) Any additional information/paperwork deemed necessary by the city to properly evaluate the request for a license.

Sec. 10-305. Consideration of application; issuance of license.

Upon the filing of a completed massage/spa establishment license application, the city marshal department shall conduct a background investigation based on the requirements of this article. Within 30 days of the filing of the completed application, the city marshal department shall either issue a recommendation for issuance or denial. Upon review by the chief Marshal, if the application meets the requirements of this article, the city marshal shall, within 15 days of receipt of the marshal department's recommendation, approve or deny the license. Payment of the regulatory fee shall be due within ten days of approval and before issuance of the license.

Sec. 10-306. Regulatory fee; expiration.

- (a) There shall be an annual regulatory fee of \$150.00 for each massage and spa establishment licensed within the city. The full regulatory fee shall be paid within ten days of approval of the application and shall not be prorated under any circumstances.
- (b) All licenses granted hereunder shall be for the calendar year and expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. Existing licensees shall file applications by December 1 of each year for the following license year. Applications received after December 1 shall be subject to a ten percent late fee.
- (c) No license issued pursuant to this article shall be transferable.

Sec. 10-307. Denial of license.

The application for a massage/spa establishment license may be denied if there is any evidence of the following:

- (1) The applicant(s) is less than 21 years of age.
- (2) The applicant(s) has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
- (3) The applicant(s) is neither the owner of the premises wherein the establishment will be operated, nor the holder of a lease thereon for the period to be covered by the license.
- (4) The annual regulatory fee required by this article is not paid within ten days of approval.
- (5) The City has revoked a massage/spa establishment license at the premises within the previous 12 months.

- (6) The applicant(s) or a person listed in response to subsection (c)(7) or (c)8 of section 12-404 has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, (at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment suspended or revoked.
- (7) The applicant(s) or a person listed in response to subsection (c)(7) or (c)8 of section 12-404 has been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
- (8) The establishment does not comply with all applicable building, health, and life safety code, or the building to be occupied does not have a valid, current certificate of occupancy.
- (9) The applicant(s) or a person listed in response to subsection (c)(7) or (c)8 of section 12-404 has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, employee, or shareholder of a massage establishment or spa establishment that has, (at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (10) If at the time of application the applicant(s) or a person listed in response to subsection (c)(7) or (c)8 of section 12-404 is charged with a specified criminal activity, consideration of the application shall be dismissed without prejudice and the applicant shall be allowed to reapply upon final disposition of any such charge.

DIVISION 3. BUSINESS OPERATION

Sec. 10-308. Employee work permits required.

- (a) *Massage/spa establishment work permit required.* It shall be unlawful for any person to be an "employee," as defined in this article, of a massage establishment or a spa establishment in the city without a valid massage/spa establishment work permit, except that a person who holds a valid massage/spa establishment license, and/or holds a license under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1, et seq) shall not be required to obtain a massage/spa establishment work permit to be an "employee" at that particular licensed establishment. No person shall work at a massage establishment or a spa establishment in the city until he/she receives, and the establishment posts, the employee's work permit as required by this article. A receipt issued by the city is not a valid massage/spa establishment work permit and does not authorize the person to work in a massage establishment or spa establishment.
- (b) *Application.* An applicant for a massage/spa establishment work permit shall file in person at the city marshal department a completed application made on a form provided by the city. The application must be signed and notarized. Applicants shall make themselves available for photographing. An application shall be considered complete when it contains all of the information and/or items required in this subsection, accompanied by the work permit fee of \$25.00:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) Current home address and mailing address for the applicant.
 - (3) Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.

- (4) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1 along with a secure and verifiable document as defined by O.C.G.A. § 50-36-2, and proof of lawful presence in the United States, if applicable.
 - (5) The name and address of the massage establishment or spa establishment for which the applicant seeks to obtain the work permit.
 - (6) A statement of whether the applicant has been an owner, director, officer, partner, employee, member, or shareholder of a massage establishment or spa establishment that has, (at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - (7) A statement of whether the applicant has been cited for, arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such violation, arrest and/or conviction.
 - (8) Five years of work history.
 - (9) Five years of residential history.
 - (10) Executed consent form authorizing the city to conduct a background investigation, including a criminal background investigation, on the applicant
- (c) *Issuance of work permit.* Upon the filing of a completed massage/spa establishment work permit application, the city marshal department shall cause to be conducted a background investigation of the applicant. Within 15 days of the filing of a completed massage/spa establishment work permit application, the Chief Marshal or his designee shall either issue a work permit to the applicant or issue a written notice of denial of the work permit to the applicant. The chief marshal or his designee shall issue the work permit unless:
- (1) The applicant is less than 18 years of age.
 - (2) The applicant has failed to provide information required by this article for issuance of a work permit or has falsely answered a question or request for information on the application form.
 - (3) The work permit fee required by this article has not been paid.
 - (4) The establishment for which the applicant seeks a work permit does not have a valid massage/spa establishment license from the city.
 - (5) The applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has (at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - (6) The applicant has been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
- (d) The work permit, if issued, will be valid for a period of one year from the date it is issued. Replacement work permit(s) shall be issued upon purchase of a new card at the full amount and expire the same date as the then-current work permit. A massage establishment or spa establishment employee shall provide the employee's work permit to the establishment for which it was issued to be posted on the premises pursuant to this article.
- (e) It shall be unlawful for an employee whose work permit has been revoked to refuse to return the work permit to the city marshal department or to alter, conceal, deface, or destroy the work permit.

- (f) If at the time of application, the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be dismissed without prejudice and the applicant shall be allowed to reapply upon final disposition of any such charge.

Sec. 10-309. Revocation of license or work permit.

- (a) Following a hearing in the Municipal Court of the City of Dallas, Georgia, a license or permit issued under this article may be suspended, revoked, or placed on probation by the Judge of the Municipal Court of the City of Dallas, Georgia for:
 - (1) A violation of this chapter and/or state or federal laws and regulations relating to massage or spa establishments;
 - (2) A material misrepresentation, false statement or omission in the application for the license or permit; or
 - (3) Ceasing to meet the eligibility requirements for licensure.
- (b) When any person listed on a massage/spa establishment license application, any employee of the establishment, or any person who performs massage at the establishment, is arrested for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, no person listed on the establishment's license application and no employee of the establishment may apply for or be issued any new license or permit for that location.

Sec. 10-310. Hearings.

- (a) The review board shall hear all matters relating to licenses and permits under this chapter, including, but not being limited to, suspensions, revocations, and any other matters affecting such licenses and permits.
- (b) Licensees or permit holders shall be given written notice of the date, time, place, and purpose when the matter at issue will be heard. The applicant, licensee, or permit holder shall be afforded the opportunity to be heard and present evidence. Ten calendar days' notice shall be required.
- (c) Upon close of the hearing, a decision shall be rendered in writing by the review board and issued no later than within 48 hours of the meeting absent the occurrence of circumstances beyond the reasonable control of the review board.
- (d) An applicant whose application has been denied, or a licensee or permit holder whose license or permit has been suspended, revoked or placed on probation by the review board may appeal to the governing authority by filing a written notice of appeal within five business days of the adverse decision or action. Such notice shall be provided to the city clerk. The appeal shall be placed on the agenda of the next governing authority meeting occurring at least ten days after the notice is received. The governing authority shall be provided a copy of all evidence heard by the review board, along with a copy of the review board's written decision. The applicant, licensee or permit holder may make a statement on their behalf before the governing authority, but no new evidence shall be taken. A vote on the appeal shall be taken either on the date of appeal hearing or at the next subsequent regular meeting of the governing authority. The decision of the governing authority shall be based on the evidence and standards of this chapter. If the governing authority determines the review board acted in accordance with the standards of this chapter, it shall affirm his decision. If the governing authority determines the review board acted contrary to the standards of this chapter, it shall overturn his decision and remand back to the review board for a corrected decision.
- (e) An applicant or licensee who is dissatisfied with the decision of the governing authority may appeal by filing for writ of certiorari with the superior court Paulding County, Georgia.

Sec. 10-311. General operating provisions.

- (a) Massage establishments and spa establishments shall keep on file, on the premises of the establishment, a list of all persons who perform any service on the premises of the establishment, their home addresses and home or mobile telephone numbers, and a description of the duties and services performed for the massage or spa establishment. The holder of a massage/spa establishment license must also keep on file, on the premises of the establishment, a copy of the establishment's two most recent license applications.
- (b) Massage establishments and spa establishments shall maintain correct and accurate records of each instance that a service is provided, including the date of the service, the type of service provided, the name of the person at the establishment who provided the service, and the patron's name. Except to the extent inconsistent with the Federal Health Insurance Portability and Accountability Act of 1996, such records shall be subject to inspection by the marshal chief, or their designees during those times when the establishment is occupied by patrons or is open to the public.
- (c) No massage establishment or spa establishment shall allow any person required to have any state mandated licenses, or a massage/spa establishment work permit pursuant to this article, to perform any service on the premises until such person has procured such license or work permit. Licensees and all managers and/or supervisors of any massage or spa establishment are required by this article to inspect and verify that each person who performs services on the premises who is required to have a valid state license or city work permit, has the required license or work permit on the establishment premises at all times, and failure to do so shall be a violation of this article. No person on the premises of a massage establishment engaging in massage for which a state license is required shall refuse to provide a copy of the person's state massage therapy license upon request by any customer or city official.
- (d) Each massage establishment shall have, at a minimum, a licensed massage therapist, on the premises at all hours that the establishment is occupied by patrons or is open to the public. If during an inspection there is no licensed massage therapist on the premise, the establishment must cease operations and close until a licensed massage therapist is on the premises.
- (e) Records required to be maintained under this article shall be kept for a minimum of two years. Records shall be made available to the marshal chief or their designee, during business hours, at the establishment's business location in the city. City officials shall use reasonable efforts under the circumstances to minimize business interruption when seeking records under this subparagraph and will otherwise comply with all applicable state or federal laws with respect to health-related protected information.
- (f) All employees and other persons on the premises of a massage establishment, with the exception of customers receiving a massage from a state licensed massage therapist, shall be completely clothed. All employees and other persons on the premises of a spa establishment, with the exception of those patrons receiving a lawful personal service customarily performed at a spa, shall be completely clothed. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. No bras, bikini tops, bustiers, or like clothing may be exposed. All clothes worn in compliance with this article shall be entirely non-transparent.
- (g) No employee may disrobe or in any way expose his or her genitals, pubic area, anus, or the areola or nipple of the female breast on the premises of a massage establishment or spa establishment.
- (h) No customer receiving a massage from a state licensed massage therapist shall expose his or her genitals, pubic area, anus, or the areola or nipple of the female breast to another person on the premises of a massage establishment. The prohibition against a customer exposing the areola or nipple of the female breast while receiving a massage from a state licensed massage therapist shall not apply when the massage therapist is certified to provide oncology massage or manual lymphatic drainage massage. No customer

receiving services at a spa shall expose his or her genitals, pubic area, anus, or the areola or nipple of the female breast to another person on the premises of a spa establishment.

- (i) No massage establishment or spa establishment shall be or remain open for business between the hours of 10:00 p.m. and 7:00 a.m. No person shall be or remain inside a massage establishment or spa establishment between the hours of 11:00 p.m. and 6:00 a.m. No massage establishment or spa establishment shall hold itself out as open at a time that the establishment is prohibited under this subsection from being open for business.
- (j) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of this Code.
- (k) Minimum lighting shall be provided in accordance with the building code, as adopted by the city, and at least one artificial light of not less than 40 watts (or equivalent illumination) shall be provided in each enclosed room or booth.
- (l) Beds or mattresses shall not be permitted in any massage establishment or spa establishment.
- (m) No massage establishment or spa establishment shall knowingly allow any minor (i.e., a person under the age of 18) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his or her parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian.
- (n) No person shall knowingly touch, manipulate, fondle, or handle in any manner the sexual organs, genital area, or anus of any other person on the premises of a massage or spa establishment.
- (o) It shall be unlawful to operate a massage establishment or spa establishment with storefront windows that have material and glazing applied or affixed that reduces light transmission through the windows to less than 32 percent, plus or minus three percent, or increase light reflectance to more than 20 percent.
- (p) Massage establishments, spa establishments, and their employees shall ensure that storefront windows are not blocked by curtains, blinds, or any other screening material during those times when the establishment is occupied by patrons or is open to the public.
- (q) Except in the event of an emergency, all patrons of massage and spa establishments shall be required to enter and exit the establishment via the establishment's front door. For purposes of this paragraph, the front door of the establishment shall be that door along the store-front portion of the establishment where signage announcing the business is placed and where the primary pedestrian or vehicular traffic occurs.
- (r) No employee may assist any customer in showering, nor shall any employee make any physical contact with a customer while the customer is showering.
- (s) It shall be prohibited for any massage or spa establishment to lock main entrance doors to the business or any door(s) to rooms where services are being performed.
- (t) The list required by section 12-404(c)16 shall be updated immediately by the licensee as massage therapists are hired.

Sec. 10-312. Posting licenses and rates.

Massage establishments and spa establishments shall post each employee's work permit issued by the city and each massage therapist's state license in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.

Price rates for all massage therapy and spa services shall be prominently posted in the reception area or other conspicuous location available for all prospective customers. No service shall be allowed or permitted that is not prominently posted with its fees in such location.

Sec. 10-313. Escort services and adult entertainment prohibited.

No massage therapy or spa establishment shall act as an escort or dating service or perform any adult entertainment.

Sec. 10-314. Alcoholic beverages prohibited.

No alcoholic beverages shall be sold, served, given, dispensed, provided, consumed, or caused or allowed to be sold, served, given, dispensed, provided, consumed by or to any person on the premises of a massage therapy or spa establishment or kept thereon. Alcoholic beverages mean and include all types and kinds of alcohol.

Sec. 10-315. Inspection.

Massage establishments, spa establishments, and their employees shall permit the city police chief, chief marshal, and their designees or agents to inspect, from time to time on an occasional basis, any portion of the establishment premises where patrons are permitted, for the purpose of ensuring compliance with the regulations of this article, during those times when the establishment is occupied by any patron or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article, but not to authorize a harassing or excessive pattern of inspections.

Sec. 10-316. Exemptions.

The requirements of this division shall have no application to or effect upon the following persons acting within the scope of their professions:

- (a) Medical doctors and osteopaths, chiropractors, physical and occupational therapists, podiatrists, acupuncturists, registered or licensed practical nurses.
- (b) Cosmetologists duly licensed to practice in this state pursuant to state law except that this exemption shall apply solely to massaging the head, neck, face, scalp and hair of the patron.
- (c) Employees of duly licensed nursing and convalescent homes and hospitals.
- (d) Athletic directors or trainers who are affiliated with an accredited educational institution or a bona fide sports team and whose work is limited to athletic team members.
- (e) State licensed massage therapists that are employees, sub-contractors or otherwise affiliated with a State Licensed medical doctor or osteopath, chiropractor, physical or occupational therapist, podiatrist, acupuncturist, registered or licensed practical nurse.

Sec. 10-317. Appeal.

An appeal of a final decision of the Judge of the Municipal Court of Dallas, Georgia must be made in writing within thirty (30) days from the entry of any final decision by the Judge of the Municipal Court of the City of Dallas, Georgia by Writ of Certiorari to the Superior Court of Paulding County, Georgia.

SO SHALL IT BE ADOPTED AND ORDAINED BY THE MAYOR AND COUNCIL
OF THE CITY OF DALLAS, GEORGIA, THIS _____ DAY OF _____.
20____.

James Kelly, Mayor

James R. Henson, Councilmember

Michael G. Cason, Councilmember

Cooper Cochran, Councilmember

Nancy R. Arnold, Councilmember

Christopher B. Carter, Councilmember

Leah Alls Councilmember

Attest: _____
Tina Clark, City Clerk