

ORDINANCE NUMBER 3009

AN ORDINANCE TO REPEAL ORDINANCE NUMBER 297 AND TO AMEND THE VESTAVIA HILLS CODE OF ORDINANCES, ARTICLE IV ENTITLED “MASSAGE PARLORS” AND TO ESTABLISH STANDARDS AND REQUIREMENTS FOR THE OPERATION OF A MASSAGE PARLOR AND MASSAGE THERAPY IN THE CITY OF VESTAVIA HILLS, ALABAMA AND TO PROVIDE FOR PENALTIES FOR VIOLATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 297 IS HEREBY REPEALED IN ITS ENTIRETY AND THAT THE ARTICLE IV, VESTAVIA HILLS CODE OF ORDINANCES, ENTITLED “MASSAGE PARLORS” IS HEREBY AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:

Section 1. 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 Parlor*: 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.
- (c) *Masseur or Masseuse*: Any person who, for any consideration, engage in the practice of massage as herein defined.
- (d) *Employee*: Any person, other than a masseur, 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.
- (e) *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.
- (f) *Student Of Massage Therapy*: Any person currently enrolled in an Alabama massage therapy school program approved by the Alabama Board of Massage Therapy.

Section 2. LICENSE REQUIRED

No massage parlor 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 Vestavia Hills as required by City of Vestavia Hills Business License Code, as amended.

Section 3. 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 4. 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 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 State 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 parlor in accordance with this section, said licensee shall not be entitled to the issuance of a subsequent license for the operation of a massage parlor in the City of Vestavia Hills or its police jurisdiction within twelve (12) months following the date of said revocation.

Section 5. COMPLIANCE WITH HEALTH AND SANITARY REQUIREMENTS, RULES AND REGULATIONS

Any massage parlor 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.

Section 6. INSPECTION OF PREMISES

Any premises used for the purpose of a massage parlor 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 Vestavia Hills 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 7. EMPLOYEES

- (a) No applicant for a license to conduct or operate a massage parlor shall be granted the same unless such persons shall first present to the Vestavia Hills 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 masseur or masseuse to be employed on the premises at the commencement of the business; and
- (b) Any masseur or masseuse of any massage parlor 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 8. MASSAGE PARLOR NOT TO BE USED AS A DORMITORY

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

Section 9. 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, masseur, or masseuse. Any contact with a patron's genital area is strictly prohibited.
- B. No massage shall be administered or applied by any masseur or masseuse in any massage parlor, except in or upon the premise where a license is regularly displayed, and at the location designated for the operation of said massage parlor in said license.
- C. No masseur, masseuse, any employee, or attendant in any massage parlor shall apply or administer any massage or other treatment to any person behind locked doors.

Section 10. SIGN TO BE DISPLAYED

Every massage parlor shall display a legible sign not larger than permitted by the Zoning Ordinance of the City of Vestavia Hills, upon which sign words “licensed masseur” or “licensed masseuse,” or both, 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 masseur” or “licensed masseuse” may be readily observed or read by persons upon entering the premises occupied by any massage parlor. No massage parlor shall operate under any name or conduct its operation under any designation not specified in its license issued by the City of Vestavia Hills in accordance with this ordinance.

Section 11. 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 parlor 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 parlor 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 parlor to comply with the provisions of this Ordinance.

Section 12. PENALTIES.

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.

Section 13. 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 14. REPEALER CLAUSE.

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

Section 15. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon adoption and approval following posting/publishing pursuant to Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this 14th day of June, 2021.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3009 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the _____ day of _____, 20____, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the 14th day of June, 2021.

Rebecca Leavings
City Clerk