

**AN ORDINANCE BY
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

AN ORDINANCE TO REPEAL THE PROVISIONS PERTAINING TO THE LICENSURE AND REGULATION OF MASSAGE TECHNICIANS AS CODIFIED IN CHAPTER 30, ARTICLE XVI, DIVISION 1, SECTION 30-951(b) ENTITLED “REQUIRED”; SECTION 30-952 ENTITLED “QUALIFICATIONS OF MASSAGE TECHNICIAN”; SECTION 30-953(d) ENTITLED “QUALIFICATIONS OF MASSAGE ESTABLISHMENT” SECTIONS 30-954(11) AND 30-954(12) ENTITLED “APPLICATION”; SECTION 30-955 ENTITLED “RECIPROCITY”; SECTION 30-956(b) ENTITLED “FEES”; AND SECTION 30-959(a) ENTITLED “REVOCATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia General Assembly (the “Assembly”) passed and Governor signed into law Senate Bill 110, which amended Title 43 of the Official Code of Georgia Annotated, by adding a new chapter 24A, entitled the “Georgia Massage Therapy Practice Act” (the “Act”); and

WHEREAS, pursuant to § 43-24A-2 of the Act, the Assembly determined that statewide regulation of massage therapy is necessary for the following reasons: “(1) affects the public health, safety, and welfare; (2) that massage therapist must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and function of the tissue being treated and the total function of the body; (3) massage is therapeutic and regulations are necessary to protect the public from unqualified practitioners; (4) it is in the interest of the public to set standards of qualifications, education, training, and experience for those who seek to practice massage therapy; (5) to promote high standards professional performance for those who seek to practice massage therapy; (6) to promote high standards of professional performance for those licensed to practice massage therapy; and (7) to protect the public from unprofessional conduct by persons licensed to practice massage therapy”; and

WHEREAS, § 43-24A-22 of the Act, provides that “No provision of any ordinance enacted by a municipality, county, or other jurisdiction that is in effect before July 1, 2005, and that relates to the practice of massage therapy or requires licensure of a massage therapist may be enforced against a person who is issued a license by the board under this chapter”; and

WHEREAS, pursuant to Chapter 30, Article XVI, Division 1, Sections 30-901 through 30-960 of the Code of Ordinances of the City of Atlanta, Georgia, the City of Atlanta (“City”) has regulated the licensure of massage technicians and massage establishments prior to July 1, 2005; and

WHEREAS, pursuant to § 43-24A-22 of the Act, the City's authority to regulate and/or license massage technicians/massage therapists has been preempted by state law; and

WHEREAS, the Act does not preempt, affect, or negate the City's authority to license and regulate massage establishments as codified in Chapter 30, Article XVI, Division 1, Section 30-953 of the Code of Ordinances of the City of Atlanta, Georgia; and

WHEREAS, the City Council desires to resolve any conflict posed by the Act by repealing all ordinances that relate to the licensure and regulation of massage therapists/massage technicians.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

Section 1: That Chapter 30, Article XVI, Division 1, Section 30-951(b) entitled "**Required**" of the Code of Ordinances of the City of Atlanta, Georgia is hereby repealed and deleted in its entirety.

Section 2: That Chapter 30, Article XVI, Division 1, Sections 30-952 entitled "**Qualifications of massage technician**" of the Code of Ordinances of the City of Atlanta, Georgia is hereby repealed and deleted in its entirety.

Section 3: That Chapter 30, Article XVI, Division 1, Sections 30-953 entitled "**Qualifications of massage establishment**" of the Code of Ordinances of the City of Atlanta, Georgia which reads:

(d) All massage technicians, licensed under this division to massage, shall be completely clothed during all times when administering a massage. For the purposes of this subsection, 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 means having on the lower body appropriate undergarments plus either pants or skirt, and such pants or skirt must cover from the waist down to a point at least two inches above the knee. The holder of the license shall have the license subject to revocation for violation of this subsection.

Is hereby amended to read as follows:

(d) All massage technicians shall be completely clothed during all times when administering a massage. For the purposes of this subsection, 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 means having on the lower body appropriate undergarments plus either pants or skirt, and such pants or skirt must cover from the waist down to a point at least two inches above the knee. The holder of the license shall have the license subject to revocation for violation of this subsection.

Section 4: That Chapter 30, Article XVI, Division 1, Sections 30-954 entitled “**Application**” of the Code of Ordinances of the City of Atlanta, Georgia, which reads:

“Any person desiring to obtain a license to operate as a massage technician or to operate a massage establishment shall make application to the department of police for an appropriate investigation. Such application shall be in writing, addressed to the mayor and city council, and shall set forth the following:”

Is hereby amended to read as follows:

“Any person desiring to obtain a license to operate a massage establishment shall make application to the department of police for an appropriate investigation. Such application shall be in writing, addressed to the mayor and city council, and shall set forth the following:”

Section 5: That Chapter 30, Article XVI, Division 1, Sections 30-954(11) and 30-954(12) entitled “**Application**” of the Code of Ordinances of the City of Atlanta, Georgia is hereby repealed and deleted in its entirety.

Section 6: That Chapter 30, Article XVI, Division 1, Section 30-955 entitled “**Reciprocity**” of the Code of Ordinances of the City of Atlanta, Georgia is hereby repealed and deleted in its entirety.

Section 7: That Chapter 30, Article XVI, Division 1, Section 30-956(b) entitled “**Fees**” of the Code of Ordinances of the City of Atlanta, Georgia, is hereby repealed and deleted in its entirety, and subsections (c) and (d) of Section 30-956 are hereby redesignated as (b) and (c).

Section 8: That Chapter 30, Article XVI, Division 1, Section 30-959(a) entitled “**Revocation**” of the Code of Ordinances of the City of Atlanta, Georgia is hereby repealed and deleted in its entirety, and subsections (b) through (e) of Section 30-959 are hereby redesignated as (a) through (d).

Section 9: That the current Chapter 30, Article XVI, Division 1, Section 30-959(e) of the Code of Ordinances of the City of Atlanta, Georgia, and redesignated as Section 30-959(d) by the aforesaid Section 7, which reads:

“(e) Any massage technician or massage establishment operator having the license revoked shall be disqualified from reapplying for such a license for 12 months immediately following the revocation.”

Is hereby amended to read as follows:

“(d) Any massage establishment operator having the license revoked shall be disqualified from reapplying for such a license for 12 months immediately following the revocation.”

Section 10: All ordinances and parts of ordinances in conflict herewith are hereby waived for purposes of this Ordinance only, and only to the extent of the conflict.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): Terry Grandison

Contact Number: (404) 330-6946

Originating Department: Police

Committee(s) of Purview: Public Safety and Legal Administration

Council Deadline: April 16, 2007

Anticipated Committee Meeting Date(s): May 1-2, 2007

Anticipated Full Council Date: May 21, 2007

Commissioner Signature _____

Chief Procurement Officer Signature _____

CAPTION

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FINANCIAL IMPACT (if any)

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: _____ Reviewed by: _____
(date) (date)

Submitted to Council: _____
(date)