STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2010-___

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA AS AMENDED TO ADOPT A NEW SECTION, CHAPTER 6 BUSINESSES AND BUSINESS REGULATIONS, ARTICLE XIV COMMERCIAL SOFT TISSUE TOUCH OR MANIPULATION (CSTTOM), CHAPTER 6 BUSINESSES AND BUSINESS REGULATIONS, SECTIONS 6-810 THROUGH 6-838; TO PROVIDE PENALITIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR THE ADOPTION OF A PREAMBLE; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the State of Georgia allows local regulation of massage parlors pursuant to O.C.G.A. § 48-13-9(b)(17);

WHEREAS, the State of Georgia has preempted the regulation and licensure of massage therapists pursuant to O.C.G.A. § 43-24A-1, et seq.;

WHEREAS, state law O.C.G.A. § 43-24A-22 allows local regulation of commercial activities that involve touch, contact or manipulation of the human body in ways that do not otherwise meet the state law definition of massage therapy;

WHEREAS, evidence has been presented to the Mayor and Council of the City of Doraville of pernicious secondary effects of wholly unregulated or weakly regulated commercial human contact, touch or manipulation businesses;

WHEREAS, the City staff regularly advises Council and attempts to follow and recommend change to ordinance in light of changing laws and conditions; and;

WHEREAS, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1.

That the Code of Ordinances, City of Doraville, Georgia is hereby amended by adding a section to be numbered Commercial Soft Tissue Touch or Manipulation (CSTTOM), Chapter 6 Business and Business Regulations, Sections 6-810 through 6-838, which said sections read as follows:

"Chapter 6. Businesses and Business Regulations.

. . .

Commercial Soft Tissue Touch or Manipulation (CSTTOM)

Sec. 6-810. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

Commercial soft tissue touch or manipulation ("CSTTOM") - means, for consideration:

(a) 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.

(b) A person who uses touch, words and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement 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.

(c) 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; or

(d) 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. The term shall be used interchangeably with CSTTOM agent.

CSTTOM agent – see Permittee.

CSTTOM parlor – means any physical structure where commercial soft tissue touch or manipulation occurs. This term shall be interchangeable with CSTTOM establishment.

Employee – means any person over eighteen (18) years of age, other than a massage therapist or CSTTOM agent, who renders any service in connection with the operation of a CSTTOM business and receives compensation from the operator of the business or patrons.

Licensee – means the person to whom a license has been issued to own or operate a CSTTOM parlor.

Massage parlor – means any establishment having a source of income or compensation derived from the practice of massage therapy and which has a fixed place of business where any person engages in or carries on any of the activities involved in massage therapy.

Massage therapist – means a person who administers massage or massage therapy for compensation pursuant to O.C.G.A. § 43-24A-3(7).

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 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, fluidotherapy, laser, and other methods of deep thermal modalities pursuant to O.C.G.A. § 43-24A-3(8) nor CSTTOM as set out in this article or O.C.G.A. § 43-24A-19(5), (6), (7) or (8).

Outcall CSTTOM service – means any business, the function of which is to engage in or carry on CSTTOM at a location designated by the customer or client rather than at a CSTTOM parlor.

Patron – means any person over eighteen (18) years of age, or anyone under eighteen (18) years of age accompanied by a parent or legal guardian, who receives a soft tissue manipulation or touch under such circumstances that is reasonably expected that he will pay money or give any other consideration therefor.

Permittee – means the person to whom a permit has been issued to act in the capacity of a CSTTOM agent.

Sexual or genital area – means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva and breasts of a female and the nipples of any male or female.

Sec. 6-811. Commercial soft tissue touch or manipulation (CSTTOM).

(a) CSTTOM agents shall be required to provide proof of the following prior to practicing commercial human touch and/or soft tissue manipulation:

1. A City CSTTOM license;

2. An Occupation Tax receipt; and

3. A CSTTOM parlor license where CSTTOM is being practiced in a building or structure demonstrating that the building or structure has been inspected for hygiene and safety purposes as set out in this article.

(b) Whenever a document is required by this section, the same shall be conspicuously displayed in a public area where CSTTOM is performed.

(c) CSTTOM shall only be allowed in CSTTOM parlors.

(d) CSTTOM shall only be allowed as a conditional use in C-2 zoned property.

Sec. 6-812. Exemptions.

The following professions are exempt from the provisions of this article:

(a) Physicians, surgeons, physician's assistants, chiropractors, osteopaths or physical therapists who are duly licensed by the State of Georgia to practice one (1) of these professions in the state.

(b) Nurses who are registered under the laws of this state.

(c) Barbers and beauticians who are duly licensed under the laws of this state, except that this exception shall apply solely to the touching of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes such as cuts, coloring or washes.

(d) Massage therapists regulated pursuant to O.C.G.A. § 43-24A-1 et seq.

(e) Persons who are licensed under O.C.G.A. § 43-24A-19(1).

In order to avail himself or herself of the exception of this section, the professional must tender into evidence the original or a certified copy of the state license or permit to perform such profession.

Sec. 6-813. Distance requirements.

(a) No CSTTOM parlor or massage parlor shall be allowed within 800 yards of another massage parlor or CSTTOM parlor.

(b) A survey showing the following distance requirements as being met shall be provided with the initial application from a registered surveyor. The 800 yard distance shall be measured by the most direct route of travel on the ground measured as follows:

(1) From the property line of the tract on which is located the business regulated under this article.

(2) To the property line of the tract to which is located the CSTTOM and massage parlor within 800 yards of the regulated business.

(3) Along a straight line which describes the shortest distance between the two property lines and not as a line running along the nearest sidewalk route.

Sec. 6-814. Fees and taxes.

Pursuant to O.C.G.A. § 48-13-19(b)(17) as adopted and as may be amended, massage and CSTTOM parlors are one of the businesses local governments may inspect and regulate. The reasonable regulatory fee to investigate, process and regularly inspect massage and CSTTOM parlors is $1,500.00. The fee shall be paid at the time of application for purposes of covering background checks and location inspections. The inspection fee provided in this article shall be in addition to the payment of occupation tax and not in lieu thereof.

Sec. 6-815. Hours of operation.

CSTTOM parlors shall only be open from 8:00 a.m. until 10:00 p.m.

Sec. 6-816. Applications for CSTTOM agent permits and CSTTOM locations licenses.

(a) CSTTOM agents must apply to the City pursuant to section 6-809 for a local license prior to the payment of occupation tax.

(b) In order to have a CSTTOM parlor, all applicants must obtain a City CSTTOM license pursuant to section 6-818, have a CSTTOM agent permit pursuant to section 6-809 and meet the regulatory sections for CSTTOM buildings under 6-825. All occupation or other taxes or fees must also be paid.

Sec. 6-817. Massage and CSTTOM not allowed together.

(a) A massage parlor can conduct massage if such practice is conducted by a state licensed massage therapist.

(b) A CSTTOM agent may conduct business in a CSTTOM parlor; however, at no time can such establishment hold itself out as a massage parlor or use the word "massage" in its advertising or signage.

(c) Massage and CSTTOM are not allowed on the same parcel at any time.

Sec. 6-818. Application for CSTTOM parlor license.

(a) Every applicant for a license to maintain, operate or conduct a CSTTOM establishment shall file an application under oath with the City upon a form provided by the City Clerk and pay a nonrefundable $1,500 annual license fee as determined by the City Council and listed in the schedule of fees and charges maintained in the City Clerk's office.

(b) The application, once accepted, shall be referred to the police department, city planner and building official for investigation. The City shall within thirty (30) days inspect the premises proposed to be operated as a CSTTOM parlor and shall make written verification to the City Clerk concerning compliance with the code of the City that he or she administers.

(c) Each application shall contain the following information:

1. A list of all services to be provided.

2. The street location, mailing address and all telephone numbers where the business is to be conducted.

3. *The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership).*

   a. *If applicant is a corporation, the names and residence addresses of each of the officers and directors of such corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the CSTTOM parlor.*

   b. *If applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the CSTTOM parlor.*

4. *The two (2) previous addresses immediately prior to the present address of the applicant.*

5. *Proof that the applicant is at least eighteen (18) years of age.*

6. *Two (2) forms of photographic identification and a complete set of applicant's fingerprints, which shall be taken by the Chief of Police or his agent. If the applicant is a corporation, Two (2) forms of photographic identification of a managing agent of such corporation and a complete set of the same agent's fingerprints, which shall be taken by the Chief of Police. If the applicant is a partnership, Two (2) forms of photographic identification of each partner, including a limited partner in such partnership, and a complete set of each partner or limited partner's fingerprints, which shall be taken by the police department.*

7. *Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.*

8. *The CSTTOM, massage or similar occupation tax receipt and licensing/permitting history of the applicant; whether such person, in previously operating in this or another City or state, has had an occupation tax certificate, license or other permit revoked, placed on probation or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.*

9. *All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted of the applicant.*

10. *The name and address of each CSTTOM agent who is or will be employed in such establishment.*

11. Addresses and descriptions of all neighboring businesses within 100 yards of the CSTTOM location for which applied.

12. The name and address of any CSTTOM, massage establishment, business or other establishment owned or operated by any person whose name is required to be given in subsection (3) above wherein the business or profession of CSTTOM. massage is carried on.

13. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

14. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

15. Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

16. The names, current addresses and written statements of at least three (3) bonafide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement should first be furnished from the residents of the City, then the county, then the state, and lastly, from the rest of the United States. These references must be persons other than relatives and business associates.

17. Any state required documents such as a state required local benefit affidavit.

(d) Upon the completion of the above-provided form and the furnishing of all foregoing information, the City Clerk shall accept the application for the necessary investigations. The holder of a CSTTOM establishment license shall notify the City and the police department of each change in any of the data required to be furnished by the applicant within ten (10) days after such change occurs.

Sec. 6-819. Application for CSTTOM agent permit.

Application for a CSTTOM permit/license shall be made to the City Clerk in the same manner as provided above for CSTTOM establishment licenses, accompanied by the annual nonrefundable $350 CSTTOM permit fee as determined by the City Council and listed in the

schedule of fees and charges maintained in the City Clerk's office. A CSTTOM agent permit may be used at multiple sites. The application shall contain, but not be limited to, the following:

(a) The business address and all telephone numbers where the CSTTOM is to be practiced.

(b) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two (2) previous addresses immediately prior to the present address of the applicant.

(c) Social Security number, driver's license number, if any, and date of birth.

(d) Applicant's weight, height, color of hair and eyes, and sex.

(e) Written evidence that the applicant is at least eighteen (18) years of age.

(f) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations.

(g) Fingerprints of the applicant taken by the police department.

(h) Two (2) forms of photographic identification.

(i) The CSTTOM, massage or similar business history and experience ten (10) years prior to the date of application, including but not limited to, whether or not such person in previously operating in this or another city or state, has had such license or permit denied, revoked or suspended, the reasons therefor, and the business activities or occupations subsequent to such action of suspension or revocation

(j) The names, current addresses and written statements of at least three (3) bonafide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from the residents of the City, then the county, then the state, and lastly, from the rest of the United States. These references must be persons other than relatives and business associates.

(k) A medical certificate signed by a physician, licensed to practice in the State, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this subsection shall be provided at the applicant's expense.

(l) *Such other reasonable information, identification and physical examination of the person deemed necessary by the police in order to discover the truth of the matters hereinbefore required to be set forth in the application.*

(m) *Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.*

(n) *Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, such declaration being duly dated and signed in the City.*

Sec. 6-820. Issuance of license for a CSTTOM establishment or permit for a CSTTOM agent.

The City shall issue a license for a CSTTOM parlor or a permit for a CSTTOM agent, after ratification by the City Council, if all requirements for a CSTTOM establishment permit described in this article are met unless it finds:

(a) *The correct permit or license fee and occupation tax has not been tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation.*

(b) *The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations.*

(c) *The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the application is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, has been convicted of any of the following offenses or convicted of an offense without the state that would have constituted any of the following offenses if committed within the state:*

1. *An offense involving the use of force and violence upon the person of another that amounts to a felony.*

2. *An offense involving sexual misconduct.*

3. *An offense involving narcotics, dangerous drugs or dangerous weapons that amount to a felony.*

4. An offense involving human trafficking.

The City may issue a license or permit to any person convicted of any of the crimes described in subsections 3(a), (b) or (c) above if it finds that such conviction occurred at least five (5) years prior to the date of the application, and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this section. The City finds that the offenses listed above are rationally related to the legislative goal of the prevention of the infiltration of organized crime, slavery, human trafficking and sex crimes into the CSTTOM industry.

(d) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the application or in any document required by the City in conjunction therewith.

(e) The applicant has had a CSTTOM business, masseur, or other similar permit or license denied, revoked, placed on probation or suspended by the City or any other state or local agency within five (5) years prior to the date of the application.

(f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.

Sec. 6-821. Approval or denial of application.

The City shall act to approve or deny an application for a license or permit under this article within a reasonable period of time and in no event shall the City act to approve or deny such license or permit later than sixty (60) days from the date that such application was accepted by the City Clerk. If the City fails to reply within sixty (60) days, the application will be deemed to be denied. Every license or permit issued pursuant to this article will terminate at the expiration of one (1) year from the date of its issuance unless sooner suspended or revoked.

Sec. 6-822. Multiple CSTTOM establishments.

Should any CSTTOM business have more than one (1) location where the business of CSTTOM is pursued, then permits, stating both the address of the principal place of business

and of the other location(s), shall be issued by the police. Licenses issued for other locations shall terminate on the anniversary date each year on the date of issuance.

Sec. 6-823. Display of license or permit.

(a) Every CSTTOM agent shall post their City permit in a prominent place.

(b) Every CSTTOM establishment licensed under this article shall display such license in a prominent place.

(c) Every CSTTOM establishment shall display their occupation tax receipt in a prominent place.

Sec. 6-824. Register of employees.

The licensee or person designated by the licensee of a CSTTOM establishment shall maintain a register of all persons employed at any time as CSTTOM agents and their local license numbers. Such register shall be available at the CSTTOM establishment to representatives of the City during regular business hours. If an employee is not a CSTTOM agent, such as a receptionist or janitor, such person must also be registered. Under no circumstances shall a non-CSTTOM employee perform CSTTOM.

Sec. 6-825. Facilities necessary.

Each CSTTOM establishment must be inspected prior to opening and at least upon an annual basis. Inspection by the City must find that the establishment complies with each of the following minimum requirements:

(a) Construction of rooms used for toilets, tubs, steam baths and showers shall be made water proof with approved waterproofed materials and shall be installed in accordance with the County building code. Plumbing fixtures shall be installed in accordance with County plumbing codes.

1. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the County.

2. Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer. (Exception: Dry heat

rooms with wooden floors need not be provided with pitched floors and floor drains).

3. A source of hot water must be available within the immediate vicinity of dry and wet rooms to facilitate cleaning.

(b) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering CSTTOM. Such non-disposable instruments and materials shall be disinfected after use on each person.

(c) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser with sanitary towels.

(f) All electrical equipment shall be installed in accordance with requirements of the county electrical code.

Sec. 6-826. Operating requirements.

(a) Every portion of the CSTTOM establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the CSTTOM establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(d) *All CSTTOM establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.*

(e) *No CSTTOM establishment granted a license under the provision of this article shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional service in violation of O.C.G.A. § 43-24A-1, et seq. The use of the word "massage" shall not be allowed in any way to advertise a CSTTOM establishment or services of a CSTTOM agent.*

(f) *No commercial touch or soft tissue manipulation shall be administered in any room or cubicle in which has a door which has a lock or is capable of being locked in any fashion, nor shall the premises in which the CSTTOM facility is located have in place locks that preclude entry into the premises during regular business hours.*

Sec. 6-827. Revocation or suspension of license.

Any license issued for a CSTTOM establishment may be revoked, placed on probation or suspended by the City after notice and a hearing for good cause, or in any case where any of the provisions of this article are violated or where any employee of the licensee, including a CSTTOM agent, is engaged in any conduct which violates any of the state or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge by due diligence. Such license may also be revoked or suspended by the City after notice and hearing, upon the recommendation of the police department that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. Such revocation proceedings are be prescribed by Section 6-838.

Sec. 6-828. Revocation of CSTTOM permit.

A CSTTOM permit issued by the City shall be revoked, placed o probation or suspended when it appears that the CSTTOM agent has been convicted of any offense which would be cause for denial of a permit upon a original application, has made a false statement on an application

for a permit, or has committed an act in violation of this article. Such revocation proceedings shall be prescribed by Section 6-838.

Sec. 6-829. Minors prohibited on premises.

No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any CSTTOM establishment, as a permitted employee or patron, unless such person is on the premises on lawful business or is otherwise accompanied by a parent or legal guardian.

Sec. 6-830. Alcoholic beverages prohibited.

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept. any alcoholic beverage on the premises of any CSTTOM establishment.

Sec. 6-831. Employment of CSTTOM agent.

No person shall employ as a CSTTOM agent any person unless such agent has obtained and has in effect a City permit.

Sec. 6-832. Inspection required.

The City shall from time to time make an inspection of each CSTTOM business establishment for the purposes of determining that the provisions of this article are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or hinder such officer in any manner.

Sec. 6-833. Unlawful acts.

(a) It shall be unlawful for any person, in a CSTTOM parlor, to place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female or the nipples of a male or female.

(b) *It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, or any portions thereof, of any other person.*

(c) *It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal, with a fully opaque covering, the sexual or genital parts of his body.*

(d) *It shall be unlawful for any person owning, operating or managing CSTTOM establishment knowingly to cause, allow or permit, in or about such massage parlor, any agent, employee or any other person under his control or supervision to perform such acts prohibited in subsections (a), (b) or (c) above.*

(e) *It shall be unlawful for any permittee under this article to administer CSTTOM on an outcall basis. Such person shall administer massage solely within an establishment licensed to carry on such business under this article. Any violation of this provision shall be deemed grounds for revocation of the license granted hereunder. The restriction on outcall CSTTOM shall not apply to a permittee who performs outcall massage upon a customer or client who, because of reasons of physical defects or incapacities or due to illness, is physically unable to travel to the CSTTOM establishment. If any outcall CSTTOM is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the permittee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of such client or customer, shall be kept by the licensee, permittee, or person or employee designated by the licensee or permittee. Such records shall be open to inspection by officials charged with the enforcement of public health laws. Any unauthorized disclosure or use of such information by an employee of the business or City shall be unlawful.*

(f) *It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a CSTTOM establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a CSTTOM establishment shall have an unobstructed opening six (6) inches by six (6) inches in size capable of clear two-way viewing into and out of all cubicles, rooms or booths. The opening shall be not less than four and one-half (4 1/2) feet from the floor. Toilets and cubicles used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of such cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, or to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments.*

Sec. 6-834. Sale, transfer, change of location.

Upon the sale, transfer or relocation of a CSTTOM establishment, the license therefor shall be null and void.

Sec. 6-835. Name and place of business.

No person granted a location license pursuant to this article shall operate the CSTTOM establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license.

Sec. 6-836. No transfer of license or permit.

No license or permit shall be transferable. A written application for a transfer shall contain the same information as requested herein for initial application for the license or permit and appropriate fees shall be paid. While not transferable, an annually issued CSTTOM agent permit may be used at multiple locations.

Sec. 6-837. Violation.

Every person, except those persons who are affirmatively proved exempt from the terms of this article, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives CSTTOM or operates a CSTTOM parlor or provides any of the services defined in this article without first obtaining a license and permit from the City, and paying a fee to do so or shall violate any provisions of this article, shall be guilty of a violation of this ordinance and shall be subject to punishment as provided in section 1-12 of the Municipal Code of the City.

Sec. 6-838. Revocation proceedings.

Upon five (5) business days written notice to the license holder, hearing may be conducted by the Mayor and Council to ascertain if a license per permit granted under this article should be revoked. Upon good cause shown, the Council may revoke, suspend or placed on probation a license or permit. Licensees and permitees shall be allowed to be represented by legal counsel and may inspect evidence, present evidence and cross examine witnesses at such hearing.

. . ."

Section 2.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or

unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

Penalties provided for violations of this Ordinance are set out in Section 1-12, as amended, of the Code of Ordinances, City of Doraville, Georgia and are hereby incorporated as if set out fully.

Section 4.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 6.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

Section 7.

It is in the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 8.

This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this _____ day of _____, 2010.

CITY OF DORAVILLE

_____
Ray Jenkins, Mayor

_____
First Reading

_____
Second Reading

ATTEST:

_____ (SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

_____
Murray J. Weed, City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Donna Pittman	☐	☐
Bob Roche	☐	☐