STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2010-_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA TO AMEND SECTION 910 C-2 BUSINESS DISTRICT, CHAPTER 23 ZONING TO ALLOW MASSAGE THERAPY AND COMMERCIAL SOFT TISSUE TOUCH OR MANIPULATION (CSTTOM) SERVICES AS CONDITIONAL USES IN THE DISTRICT; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO ADOPT A PREAMBLE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, zoning is a matter within the purview of local governments pursuant to Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia of 1983;

WHEREAS, these articles are adopted pursuant to authority granted to the City of Doraville, Georgia by Article XI, Section II, Paragraph III of the Constitution of the State of Georgia of 1983, and more specifically the plenary police powers delegated to the City by said section and by operation of law;

WHEREAS, the Official Code of Georgia Annotated § 36-66-1, et seq. provides procedures and regulations for the adoption of zoning ordinances;

WHEREAS, the duly elected governing authority of the City of Doraville, Georgia are the Mayor and Council thereof;

WHEREAS, on December 9, 2010, the Planning Commission recommended to the Mayor and Council the adoption of an ordinance that would locate massage therapy locations and CSTTOM operations, as described above, as Conditional Uses in C-2 zone;

WHEREAS, O.C.G.A. Section 48-13-9 and Section 43-24A-22 allow the massage therapy and commercial touching industries to be subject to local regulation and scrutiny;

WHEREAS, after reviewing the need for this amendment, the Mayor and Council have agreed to adopt the same;

WHEREAS, the existing uses and zoning of nearby properties have been considered and this Ordinance balances the same;

WHEREAS, to the extent there is destruction of property values on any property, the same promotes the health, safety, morals or general welfare of the public;

WHEREAS, the relative harm to the public as compared to the hardship imposed upon individual property owners is de minimus;

WHEREAS, the suitability of a subject property for a zoning proposed is not directly applicable;

WHEREAS, the length of time a property has been vacant as zoned, considered in the context of land development of adjacent and nearby property is not applicable;

WHEREAS, whether the zoning proposal adversely affects the existing use or usability of adjacent or nearby property is not directly applicable to this Ordinance;

WHEREAS, property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

WHEREAS, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;

WHEREAS, the zoning proposal is in conformity with the policy and intent of the land use plan;

WHEREAS, there are other existing or changing conditions affecting the use and development of property which gives supporting grounds for approval of the zoning proposal;

WHEREAS, the possible effects of the change in the regulations or map on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community have been considered and pose no negatives not otherwise outweighed by the community benefits;

WHEREAS, there should be limited impact as to adoption of the proposed zoning change upon pedestrian and vehicular circulation and traffic and thoroughfare capacities and capabilities; 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 Section 910, Chapter 23 Zoning of the Code of Ordinances, City of Doraville, Georgia is hereby amended to read as follows and readopting the remainder of the section without change:

"Chapter 23. Zoning.

. . .

Sec. 910. C-2 general business district.

. . .

Conditional Uses.

. . .

Commercial Soft Tissue, Touch or Manipulation (CSTTOM) facilities as defined in City Code. Massage therapy, as defined in O.C.G.A. § 43-24A-3, is specifically prohibited with CSTTOM.

. . .

Massage therapy as defined by O.C.G.A. § 43-24A-3, with all parties holding a valid massage therapy license issued by the Georgia Board of Massage Therapy. CSTTOM practitioners shall be prohibited within massage therapy establishments.

. . .”

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 or 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 hereby, of the Code of Ordinances, City of Doraville, Georgia and are herby 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 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, GEORGIA

_____
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	☐	☐