

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF FOLEY TO
FURTHER RESTRICT THE PERMISSIBLE LOCATIONS WHERE TATTOO
PARLORS, MASSAGE PARLORS, AND PAWN SHOPS CAN OPERATE

WHEREAS, the City Council and the Planning Commission of the City of Foley have found that neighboring and nearby coastal municipalities in Baldwin County have enacted various ordinances that restrict, prohibit, or otherwise limit the ability of certain types of establishments to operate, such as tattoo parlors, massage parlors, and pawn shops; and

WHEREAS, the City Council and the Planning Commission of the City of Foley are concerned that due to these restrictions in neighboring and nearby coastal municipalities, and due to Foley's proximity to these coastal municipalities and major tourist areas and its unusually high traffic count for tourist traffic, Foley may experience more tattoo parlors, massage parlors and pawn shops desiring to locate in Foley than would otherwise choose to locate in any municipality of Foley's size; and

WHEREAS, the City Council and the Planning Commission of the City of Foley have found and determined that an inordinate number of tattoo parlors, massage parlors and pawn shops in close proximity to one another and in close proximity to certain other types of land uses can cause a decrease in public safety, public health, and public welfare below the point that is acceptable; and

WHEREAS, the City Council and the Planning Commission of the City of Foley have found and determined that an inordinate number of tattoo parlors, massage parlors and pawn shops in close proximity to one another and in close proximity to certain other types of land uses can cause a decrease in the market value of surrounding properties and can create a public nuisance; and

WHEREAS, to mitigate and avoid the adverse consequences to the health, safety, and general welfare of the public, and to mitigate and avoid a public nuisance from being created, the City Council and the Planning Commission of the City of Foley have found and determined that regulating the locations where tattoo parlors, massage parlors and pawn shops can be located by amending the Zoning Code as provided herein is in the best interests of the City and the public;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Foley as follows:

Sec. 1. That the Zoning Code of the City of Foley is hereby amended to add Sections 8.10.1 through 8.10.4 which will read, in full, as follows:

8.10 – Regulated Land Uses.

8.10.1 – Purpose. The purpose of this subsection of the Zoning Code is to mitigate and protect against the adverse public health, safety and welfare consequences and the public nuisances that are likely to arise when an inordinate number of tattoo parlors, massage parlors and/or pawn shops are operated in close proximity to one another and in close proximity to certain other types of land uses which are vulnerable to negative consequences from such businesses.

8.10.2 – Definitions. For purposes of this subsection of the Zoning Code, the following definitions shall apply:

(A) Body piercing. The perforation of human tissue other than ear for a nonmedical purpose.

(B) Branding. A permanent mark made on human tissue by burning with a hot iron or other instrument.

(C) Massage parlor. A site, premises, business or establishment where massage therapy is practiced, made available, or offered.

(D) Massage therapy. 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, occupational therapy, veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or naturopathics.

(E) Pawn shop. A site, premises, business or establishment where pawn transactions are entered into, made available, or offered EXCLUDING the

following: any bank which is regulated by the State Banking Department of Alabama; the Comptroller of the Currency of the United States; the Federal Deposit Insurance Corporation; the Board of Governors of the Federal Reserve System or any other federal or state authority; and all affiliates thereof and any bank or savings and loan association whose deposits or accounts are eligible for insurance by the Bank Insurance Fund or the Savings Association Insurance Fund or other fund administered by the Federal Deposit Insurance Corporation and all affiliates thereof; any state or federally chartered credit union; and any finance company subject to licensing and regulation by the State of Alabama Banking Department.

(F) Pawn transaction. Any loan that is made on the security of pledged goods left with the lender, or any purchase of pledged goods on condition that the pledged goods are left with the lender/buyer and may be redeemed or repurchased by the borrower/seller for a fixed price within a fixed period of time.

(G) Regulated Land Use Establishment. Pawnshops, massage parlors, and/or tattoo parlors.

(H) Tattoo, tattooed, tattooing. Any method of causing an indelible mark to be made upon the body of an individual by the insertion of a pigment in or under the skin or any method of causing an indelible mark to be made upon the body of an individual by the production of scars.

(I) Tattoo parlor. A site, premises, business or establishment where tattooing, branding, and/or body piercing are practiced, made available, or offered.

8.10.3. – State and Local Licenses Required. No Regulated Land Use Establishment may operate in the City of Foley without first having obtained all necessary and applicable licenses and permits from the State of Alabama, Baldwin County, and the City of Foley.

8.10.4. – Geographic Restrictions.

(A) Within those zoning districts in which a Regulated Land Use Establishment would otherwise not be prohibited by this Zoning Code, Regulated Land Use Establishments are hereby prohibited from being located on property that is within a 1,000 foot radius of any of the property on which any one of the following are located:

- (1) a pre-existing Regulated Land Use Establishment;
- (2) a public or private school;
- (3) a licensed day care facility;
- (4) a public park;
- (5) a public library;
- (6) a public playground;

- (7) a designated local or national historic district property; or
- (8) a Sexually Oriented Business as defined in Section 13 of this Code.

(B) Within those zoning districts in which a Regulated Land Use Establishment would otherwise not be prohibited by this Zoning Code, Regulated Land Use Establishments are hereby prohibited from being located on property that is within a 500 foot radius of any of the property on which any one of the following are located:

- (1) a church; or
- (2) a residence.

Sec. 2. That all portions of the Zoning Code which are in direct conflict with the provisions of this Ordinance are hereby repealed, but only to the minimum extent necessary to eliminate the direct conflict.

Sec. 3. That this ordinance shall become effective upon its publication as required by law.

Passed, Adopted, and Enacted on this the ____ day of _____, 2013.

PRESIDING OFFICER

Attest:

City Clerk