

**VILLAGE OF DEERFIELD  
LAKE AND COOK COUNTIES, ILLINOIS**

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**ORDINANCE NO.   O-18-09**

**AN ORDINANCE AMENDING CHAPTER 7 (“BUSINESSES”), ARTICLE 14  
 (“MESSAGE ESTABLISHMENTS”) TO REGULATE MESSAGE ESTABLISHMENTS**

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**WHEREAS**, the Village of Deerfield is a home rule unit of local government under the provisions of Article VII, Section 6 of the Illinois Constitution that may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the regulation of massage establishments is a matter of growing importance affecting the public health, morals, and welfare of the residents of the Village of Deerfield including, but not limited to, the prevention of such establishments from being used for the purposes of prostitution and the spread of disease through unsanitary practices and facilities; and

**WHEREAS**, the corporate authorities of the Village of Deerfield have determined that the regulations provided herein are in the best interests of the public health, safety, morals and welfare of the Village of Deerfield;

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS,** in the exercise of its home rule powers, as follows:

**SECTION 1:** The recitals to this Ordinance are incorporated into and made a part of this Ordinance as if fully set forth herein.

**SECTION 2:** Chapter 7 (“Businesses”), Article 14 (“Message Establishments”) of the Municipal Code of the Village of Deerfield shall be hereby repealed and amended as follows:

**ARTICLE 14**  
**Massage Establishments and Therapists**

**Sec. 7-78. Definitions.**

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- (1) *Employee* means any person over eighteen (18) years of age, other than a masseur, who renders any service in connection with the operation of massage establishment and receives compensation from the owner or operator of the establishment or patrons, including but not limited to, agents or independent contractors.
- (2) *Massage or massage services* means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with aid of any mechanical, electrical apparatus or by the application of air, liquid, or vapor baths of any kind, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.
- (3) *Massage establishment* means the premises where any person, business, firm, partnership, association, corporation or limited liability company engages in or carries on, or permits to be engaged in or carried on, any massage services.
- (4) *Massage therapist* means any person who is licensed by the Illinois Department of Financial and Professional Regulation and engages in the practice of massage.
- (5) *Patron* means any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give other consideration for such service.
- (6) *Person* means any individual, association, partnership, firm, trust, corporation or limited liability company.

**Sec. 7-79. Massage Business License Required.**

No person shall engage in or carry on the business of massage or otherwise provide a massage in return for compensation in the Village without first obtaining a massage business license issued by the Village pursuant to the provisions of this Article for each and every premise used for the business of conducting a massage business or otherwise providing massages for compensation by such person. The applicant for a massage business license must be at least eighteen (18) years of age. The license term shall expire on December 31 of the calendar year for which it is issued unless sooner revoked as provided in this Article. The renewal of a license shall follow the same provisions under this Article as the application, issuance and denial of a license.

**Sec. 7-80. Application for Massage Business License.**

- (a) An application for a massage business license shall be filed with the Village Manager. The application shall be made upon a form provided by the Village and shall be completed in full and signed by the applicant, if an individual, or by a duly authorized agent thereof, if not an individual, verified by oath or affidavit, and shall set forth:
1. The type of ownership of the business, i.e., whether individual, partnership, corporation, or otherwise.
  2. The name under which the business is to be conducted.
  3. The location and description of the premises or place of business which is to be operated under such license.
    - (i) If a leased premises, a copy of the lease shall be provided. The term of such lease must not end until after the expiration date of the license for which application is being made.
    - (ii) The name and address of the owner(s) of the premises, and, if said premises is held in trust, the names and addresses of all the owners of the beneficial interest of the trust.
  4. In the case of an individual, the full name, home address with zip code, social security number, date of birth, sex and a physical description of the applicant, including height, weight, color of hair and eyes.
  5. In the case of a partnership, the full name, home address with zip code, social security number, date of birth, sex and a physical description including height, weight, color of hair and eyes of all partners and any other persons entitled to share in the profits thereof.
  6. In the case of a corporation, the object for which organized, the names, home addresses with zip codes, date of birth, social security number, sex and a physical description including height, weight, color of hair and eyes of all officers, directors, and all persons owning directly or beneficially more than ten percent (10%) of the stock of such corporation and the persons acting as managers or assistant managers or other persons principally in charge of the operation of the business.
  7. The date of formation of the partnership, if a partnership, the date of incorporation, if an Illinois corporation, or the date of becoming qualified under the Illinois Business Corporation Act, 805 ILCS 5/1.01 et seq., to transact business in Illinois if a foreign corporation.
  8. A complete list of the name and residence addresses of all masseurs and employees employed by the business and the name and residence addresses of all managers,

assistant managers or other persons principally in charge of the operation of the business.

9. The business, occupation, employment of applicant, if an individual, for three (3) years preceding the date of application.
  10. Whether applicant ever made an application for a license under this Article, or a massage business license or similar license to a state or county, city, village or other unit of local government, and if so, where and when, and if such application was granted or denied, and if such application was denied, the reasons for the denial.
  11. Whether a license was ever issued to the applicant under this Article or a massage business license or similar license was ever issued by any state or county, city, village or other unit of local government, and if so, where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.
  12. Whether the applicant has ever been convicted of a violation of any of the provisions of this Article or any ordinance of any other Illinois municipality which regulates massage parlors or the providing of massages, or any Illinois statute regulating massage establishments.
  13. Whether the applicant has ever been convicted of the commission of a felony under the laws of this State, or any other state, or under the laws of the United States.
- (b) The applicant shall submit a complete set of fingerprints with the application. All such fingerprinting shall be done by the Village Police Department. Said fingerprints shall be submitted to the appropriate State and/or Federal agencies for processing as available. The cost of fingerprinting shall be paid by the applicant in addition to any application or license fee.
  - (c) The applicant shall submit a written authorization for the Village, 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 a license.
  - (d) The applicant shall submit such other information, documentation and identification as the Village Manager or Chief of Police shall deem necessary to determine the identity of the applicant or to process the application.

#### **Sec. 7-81. Issuance and Denial of Massage Business License**

- (a) Upon receipt of a properly completed application for a massage business license, the Village Manager shall submit the completed application to the Chief of Police for evaluation. Upon receiving the application for a massage business license, the Chief of Police shall conduct an investigation into applicant's moral character and personal and criminal history.

- (b) In the case of an application for a massage business license, the Village Manager shall cause the premises to be licensed to be inspected for the purpose of determining that the proposed operation complies with all applicable laws, including building, electrical, plumbing, health, housing, zoning, and fire codes of the Village, and any other regulations of the Village relating to the public health, safety and welfare.
- (c) The Village Manager shall either issue a license, or notify the applicant in writing that the application has been denied. The license shall be denied if the applicant fails to comply with the requirements of this Article or with the requirements of any other provision of this Code which is applicable to the business and/or activities of the applicant. In addition, no license shall be issued to any applicant if:
  - 1. The proposed operation does not comply with all applicable laws, including but not limited to, building, electrical, plumbing, health, housing, zoning and fire codes of the Village; or
  - 2. The applicant, if an individual; or any of the officers, directors, any person owning directly or beneficially more than ten percent (10%) of the stock of the corporation, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager, assistant manager or any other person principally in charge of the operation of the business, has been:
    - (i) convicted of a felony under the laws of the State of Illinois or any other state, or under the Federal laws of the United States, within ten (10) years of the date of the application; or
    - (ii) convicted of a sex offense as defined in 720 ILCS 5/11, or any equivalent law of any state within ten (10) years of the date of the application; or
    - (iii) The applicant has been convicted of a violation of any provision of this Article; or
    - (iv) The applicant has had a massage business, masseur or similar license denied, suspended or revoked by the Village, by a state or by unit of local government within ten (10) years of the date of the application; or
    - (v) The applicant has been convicted of a violation of an ordinance of any other Illinois municipality regulating massage establishments or masseurs; or
    - (vi) The applicant has been convicted of any other criminal offense involving dishonesty, fraud, deceit or moral turpitude within ten (10) years of the date of the application; or
    - (vii) The applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the Village in conjunction with the license application; or

- (viii) The applicant has been overdue on payment to the Village of fees, fines, or penalties assessed against the licensee or imposed upon the licensee in relation to the sale or use of pavement sealants.
- (d) In the event that the license is denied for failure to comply with the requirements of this Article, the Village Manager shall immediately notify the applicant in writing of the reasons for the denial. If the failure is not cured within ten (10) days after the date on which the Village Manager denies the issuance of said license, the application shall be null and void.

**Sec. 7-82. License Fee.**

Except as otherwise provided by an annual fee resolution, an initial non-refundable application fee for a massage business license shall be One Hundred Dollars (\$100.00), and the annual license and renewal fee shall be Thirty-Five Dollars (\$35.00). All applicable license fees and any other required fees shall be paid prior to the issuance of any license.

**Sec. 7-83. Sanitation and Safety Requirements.**

All licensed premises shall be periodically inspected by the Village Building and Code Enforcement Supervisor or his duly authorized representative for safety of the structure and adequacy of plumbing, ventilation, heating, illumination and fire protection. In addition, the premises shall comply with the following regulations:

- (a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given;
- (b) Floors shall be free from any accumulation of dust, dirt or refuse;
- (c) All equipment used in the massage operation shall be maintained in a clean and sanitary condition;
- (d) Soap, towels and laundered sheets must be provided and all such towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered;
- (e) Towels, cloths and sheets shall not be used for more than one patron; provided, however, heavy white paper may be substituted for sheets provided that such paper is changed for every patron.
- (f) All massage services or practices are prohibited in any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked.
- (g) All massage therapists shall wear clean and suitable outer garments whose use are restricted to the massage establishment, and must wear on such outer garments, at all times during operation, identification name plates with the license numbers

provided by the Village.

- (h) Separate toilets, dressing room facilities, lockers, steam baths, tubs and showers shall be provided for each sex.

**Sec. 7-84. Conditions and Restrictions of License.**

- (a) **Supervision.** A massage establishment shall have the premises supervised at all times when open for business. A massage establishment shall have at least one (1) person who has a valid massage therapist license on the premises at all times while the establishment is open for business. The licensee shall personally supervise the business, and shall not violate, or permit others to violate, any applicable provisions of this Article. The violation of any provisions by any agent, employee or independent contractor of the licensee shall constitute a violation of the licensee.
- (b) **Separate License for Each Premise.** Licenses apply only to the premises described in the application, and in the license issued thereon, and only one location shall be so described in each license.
- (c) **Transfer of License.** A license shall be a purely personal privilege, effective for a period not to exceed one (1) year after issuance unless sooner revoked as provided in this Article, and shall not constitute property. No massage business license is transferable, separate or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.
- (d) **Display of License.** The massage business license and all massage therapist licenses shall be displayed in an open and conspicuous place of the premises to be licensed.
- (e) **Books and Records.** Every massage business licensee shall at all times keep an appointment book in which the name of each and every patron shall be entered, together with the time, date and place of service, and the service provided, as well as the name of the massage therapist who performed the service provided. Such books and records shall be available at all times for inspection by the Chief of Police or his authorized representative.
- (f) **Alcoholic Beverages, Marijuana, Opioids Prohibited.** No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage, marijuana or opioids on the premises of any establishment.
- (g) **Hours of Operation.** No massage establishment shall be open for business or in operation during the hours of 10 p.m. to 6 a.m.
- (h) The Chief of Police, any duly authorized police officer or a building and code enforcement officer of the Village shall have the right to enter the premises for the purpose of inspecting the premises or operations therein.

- (i) The licensee shall undertake all reasonable efforts to ensure compliance with the provisions of this Article, including but not limited to, cooperation with the Village's enforcement of this Article and the implementation of robust managerial programs aimed at the prevention of prostitution.

**Sec. 7-85. Prohibited Acts and Conditions.**

- (a) A patron's sexual or genital area, including the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female, must be covered by towels, cloths or undergarments when in the presence of a massage therapist or employee.
- (b) It shall be unlawful for any person, intentionally, in a massage establishment, to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, the genital area of another person.
- (c) No massage therapist or employee shall perform, offer or agree to perform any act which would require the touching of the patron's genital area.
- (d) No massage therapist shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption unless a physician duly licensed by the State of Illinois certifies in writing that such persons may be safely massaged prescribing the conditions thereof.
- (e) No licensee, massage establishment, massage therapist, person, or employee of a massage establishment shall deny, impede, interfere with, prohibit or refuse to permit an inspection by a police officer or other employee of the Village.
- (f) No person other than a massage therapist, as defined by Section 7-78(4) of this Code, shall administer or perform a massage at a massage establishment.

**Sec. 7-86. Suspension or Revocation of License.**

In addition to the provisions under Section 1-26 ("Suspension Or Revocation Of Licenses Or Permits; Refusal To Issue Licenses Or Permits") of this Code, the Village Manager may deny, suspend, revoke, or refuse to issue or renew, a massage business license for any of the following reasons:

- (a) Any violation by the licensee of any provision of this Article or other ordinance of the Village relating to the license, the subject of the license or to the premises occupied.
- (b) Any violation by the licensee of any ordinance or law regulating massage establishments or massage therapists of any other jurisdiction.
- (c) Any denial, suspension or revocation of a massage business license or similar



license issued to the licensee, the licensee's agent, or the massage establishment's owner, operator or employee by the Village or any other jurisdiction unit of local government.

- (d) If a massage license is revoked for any cause, no massage business license shall be granted to any person for a period of one (1) year after the date of the revocation that will allow a massage business to be operated on the premises described in the revoked license.
- (e) Except as otherwise provided by this Section, the provisions of Section 1-26 of this Code shall govern the issuance, denial, suspension or revocation of this license.
- (f) The Village Manager shall have the discretion to deny, suspend or revoke a license for a single violation of this Article.

**Sec. 7-87. Exemptions.**

Except as otherwise provided herein, the provisions of this Article do not apply to persons holding a valid certificate or license to practice medicine, nursing, physical therapy, occupational therapy, athletic trainer, chiropractic, or other healing arts under the laws of the State of Illinois, or persons working under the direction of any such licensed persons, or any barber or cosmetologist lawfully carrying on their respective businesses to the extent authorized under a valid license or certificate of registration issued by the State of Illinois. This exemption is not intended for, and does not permit, general massage activities as part of any barber or cosmetologist business beyond that authorized by their State license or certification.

**Sec. 7-88. Penalties.**

Any person found guilty of violating any provisions of this Article shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The license of any person found guilty of violating any provision of this Article may be denied, suspended or revoked.

**SECTION 3:** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

**SECTION 4:** This Ordinance, and each of its terms, shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should: (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law; or, (b) legislate in a

manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Deerfield that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law; provided, however, that the effective date will not occur prior to August 1, 2018.

PASSED this 7th day of May, 2018.

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers

NAYS: None

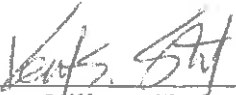
ABSENT: None

ABSTAIN: None

APPROVED this 7th day of May, 2018.

  
\_\_\_\_\_  
Village President

ATTEST:

  
\_\_\_\_\_  
Village Clerk

**VILLAGE OF DEERFIELD  
LAKE AND COOK COUNTIES, ILLINOIS**

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**AN ORDINANCE AMENDING CHAPTER 7 ("BUSINESSES"), ARTICLE 14  
("MASSAGE ESTABLISHMENTS") TO REGULATE MASSAGE ESTABLISHMENTS**

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**PASSED AND APPROVED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF DEERFIELD, LAKE  
AND COOK COUNTIES, ILLINOIS, this**

**7th day of May, 2018.**

**Published in pamphlet form  
by authority of the President  
and Board of Trustees of the  
Village of Deerfield, Lake and  
Cook Counties, Illinois, this  
7th day of May, 2018.**