

## ORDINANCE

### **AN ORDINANCE AMENDING CHAPTER 8 ("BUSINESS LICENSING") OF THE OAK PARK VILLAGE CODE TO ADD A NEW ARTICLE 38 ("MASSAGE ESTABLISHMENTS AND MASSAGE SERVICES")**

**WHEREAS**, the Village of Oak Park ("Village") as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit, the Village of Oak Park's powers shall be construed liberally as held by the Illinois Supreme Court in the case of *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

**WHEREAS**, pursuant to the Village's home rule authority, the Village Board has determined that the regulation of massage establishments and massage services is necessary to preserve public health, safety and welfare of its citizens.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

**Section 1. Recitals Incorporated.** The above recitals are incorporated herein as though fully set forth.

**Section 2. Village Code Amended.** Chapter 8 ("Business Licensing") of the Oak Park Village Code to add a new Article 38 ("Massage Establishments and Massage Services") as follows:

#### **ARTICLE 38**

#### **MASSAGE ESTABLISHMENTS AND MASSAGE SERVICES**

**8-38-1: DEFINITIONS:**

**8-38-2: MASSAGE ESTABLISHMENT LICENSE — REQUIRED:**

**8-38-3: LICENSE FEE:**

**8-38-4: OPERATING REQUIREMENTS:**

**8-38-5: MASSAGE ESTABLISHMENT LICENSE — ISSUANCE CONDITIONS — TERM:**

**8-38-6: EMPLOYMENT OF LICENSED MASSAGE THERAPISTS:**

**8-38-7: PREMISES:**

**8-38-8: ADVERTISING RESTRICTIONS:**

**8-38-9: INSPECTIONS:**

**8-38-10: TRANSFER OF LICENSES — RESTRICTED:**

**8-38-11: LICENSE — DISPLAY:**

**8-38-12: SUSPENSION AND REVOCATION OF LICENSE:**

**8-38-13: PENALTY**

### **8-38-1: DEFINITIONS:**

The words and phrases set forth below are hereby defined as follows for the purposes of this article:

**MASSAGE:** Any method of pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, bathing, touching, binding, painting, irritating, or stimulation of external soft parts of the body with hands or with the aid of any manual, mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptic oils, powder, creams, lotions, soaps, ointments or other similar preparations commonly used in this practice.

**MASSAGE ESTABLISHMENT:** Any place of business where any person, for any consideration, engages in the practice of massage as defined above, but does not include any hospitals, nursing homes, facilities or offices at which a health care worker duly licensed by the State of Illinois provides, on an ongoing basis, professional health services to individuals.

**MASSAGE THERAPIST:** Any person who, for any consideration, engages in the practice of massage as above defined, and who is subject to regulation by the Illinois Department of Professional Regulation under the Illinois Massage Licensing Act, 225 ILCS 57.

**PERSONS:** Any individual, copartnership, firm, association, joint stock company, corporation, or any combination of individuals of whatever form or character.

**LICENSEE:** The operator of a massage establishment.

**SEXUAL OR GENITAL AREA:** The genital, pubic area, anus or perineum of any person, or the vulva or breasts of a female.

### **8-38-2: MASSAGE ESTABLISHMENT LICENSE — REQUIRED:**

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, upon any premises in the Village the operation of a massage establishment as defined in section 8-38-1 without first having obtained a license from the Village.

### **8-38-3: LICENSE FEE:**

The fee for a license required by this article shall be based upon the schedule as set forth in section 8-2-1(C)(1) of this Code.

#### **8-38-4: OPERATING REQUIREMENTS:**

- A. Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated under sanitary conditions.
- B. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- C. A massage establishment shall require its employees, agents and independent contractors to wear clean, nontransparent outer garments covering their sexual and genital areas while on the licensed premises, and no massage establishment shall allow its employees, agents, and independent contractors to disrobe, or offer or agree to disrobe, either wholly or partially, while on the licensed premises. Any such failure to be or remain clothed, or offer or agreement to disrobe, is a violation of this article for which the licensee is strictly liable for purposes of license revocation and suspension and any penalty set forth in this Code.
- D. A massage establishment shall provide clean laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner.
- E. No massage establishment shall allow its employees, agents and independent contractors to touch, or offer or agree to touch, the sexual or genital areas of any person while on its licensed premises and any such touching, offer or agreement is a violation of this article for which the licensee is strictly liable for purposes of license revocation and suspension.
- F. All walls, ceilings, floors, pools, showers, bath and steam rooms and any other physical facilities shall be in good repair, and maintained in a clean and sanitary condition.
- G. Oils, creams, lotion and other preparation used in administering massages shall be kept in clean, closed containers or cabinets.
- H. A licensee shall maintain, as a business record of the licensed massage establishment, a record of: (1) the date and time of all massage services at the licensed premises; (2) the person giving such services; and (3) the amounts received for such services. The record of the date, time and service provider must be made before services are initiated and the record of the amount received must be made at the time payment is made. Such a record for the past year's services shall be available at the licensed premises in a format that can be inspected at any reasonable time upon request of the Village.
- I. A massage establishment shall maintain clear glass, which is not painted over, darkened or blocked by any cloth or obstruction, at the entrance to such establishment so that the front area where patrons are greeted is visible from the outside. A massage establishment which is located in a facility that does not have any glass on the front of the licensed premises is required to notify the Village in writing of such condition.

J. No massage establishment shall allow its employees, agents and independent contractors to use the licensed premises for habitation.

**8-38-5: MASSAGE ESTABLISHMENT LICENSE — ISSUANCE CONDITIONS — TERM:**

No license shall be issued pursuant to this article upon any of the following:

A. The operation of the massage establishment as proposed by the applicant, if permitted, would not comply with the applicable laws of the State of Illinois and the Village, including but not limited to the building, health, housing, fire prevention and the Village's Zoning Ordinance; or

B. The applicant or any other person who shall be directly or indirectly engaged in the management or operation of the massage establishment has been convicted of a felony; or

C. The operation of the massage establishment as proposed by the applicant, if permitted, would violate the provisions of this article or any other provision of this Code.

**8-38-6: EMPLOYMENT OF LICENSED MASSAGE THERAPISTS:**

A. A massage establishment may not employ any persons as a massage therapist who does not hold a current, valid license issued by the Illinois Department of Financial and Professional Regulation as required by the Massage Licensing Act of the State of Illinois, 225 Illinois Compiled Statutes 57 *et seq.*, or which is suspended, revoked, or temporarily suspended by the Department under said Act.

B. A massage establishment shall maintain a current list of all licensed massage therapists who perform massage services at the licensed premises and proof of a valid and current Illinois massage therapist license issued by the Illinois Department of Financial and Professional Regulation. In addition, a massage establishment shall maintain a copy of a state-issued photo identification card for each massage therapist licensee. The massage establishment must allow inspection of such records at any reasonable time upon request of the Village.

C. No licensee may allow a non-licensed massage therapist to perform massage services at a massage establishment.

**8-38-7: PREMISES:**

A. No massage establishment shall receive a license or be operated, established or maintained upon any premises unless the establishment shall comply with the following:

1. All massage tables, lavatories and floors shall have surfaces which may be readily disinfected.

2. Separate dressing, locker, toilet and massage room facilities shall be provided for female and male patrons, so that female and male patrons may be served simultaneously in the event that patrons of both sexes are permitted; and
3. Closed cabinets shall be provided for use in the storage of clean linens, towels and other materials used in administering massages. All soiled linens, towels and other material shall be kept in properly covered containers or cabinets which shall be kept separate from the clean storage areas.

#### **8-38-8: ADVERTISING RESTRICTIONS:**

No massage establishment issued a license under this article shall depict, place, publish, distribute or cause to be depicted, placed, published or distributed any advertising matter that suggest to prospective patrons that any services are available that would constitute a felony or misdemeanor under federal, state or village law or would otherwise violate the this Code.

#### **8-38-9: INSPECTIONS:**

A massage establishment shall be subject to inspection by the Village twice annually to assure compliance with this Code and all applicable laws and regulations. It shall be the duty of the licensee or the person in charge of the licensed premises to allow such inspection and admit, for purpose of making the inspection, any officer or employee of the Village who is authorized or directed to make such inspection.

#### **8:38:10: TRANSFER OF LICENSES — RESTRICTED:**

A massage establishment license shall not be transferable.

#### **8-38-11: LICENSE — DISPLAY:**

A licensee shall post a valid current massage establishment license pursuant to section 8-1-13 of this Code.

#### **8-38-12: SUSPENSION AND REVOCATION OF LICENSE:**

A license issued for a massage establishment may be revoked or suspended pursuant to section 8-1-14 of this Code.

#### **8-38-13: PENALTY:**

Any person violating any provision of this chapter shall be fined in accordance with the provisions set forth in section 1-1-5 of this Code.

**Section 3. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

**ADOPTED** this \_\_\_\_ day of October, 2017, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Andrews				
Trustee Boutet				
Trustee Button				
Trustee Moroney				
Trustee Taglia				
Trustee Tucker				

**APPROVED** this \_\_\_\_ day of October, 2017.

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Anan Abu-Taleb, Village President

**ATTEST**

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Vicki Scaman, Village Clerk

Published in pamphlet form this \_\_\_\_ day of October, 2017.

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Vicki Scaman, Village Clerk