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AN ORDINANCE AMENDING TITLE 7, CHAPTER 14 OF THE ORLAND PARK VILLAGE CODE – MASSAGE ESTABLISHMENTS

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WHEREAS, the State of Illinois requires that persons engaged in massage for compensation must be licensed by the Department of Professional Regulation pursuant to the Massage Licensing Act (“Act”), 225 ILCS 57/1 et seq.; and

WHEREAS, the Act sets forth comprehensive licensure requirements and grounds for discipline; and

WHEREAS, the Act specifically states that the regulation and licensing of massage therapy is an exclusive power and function of the State;

NOW, THEREFORE, Be It Ordained by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1

Title 7, Chapter 14, of the Orland Park Village Code is hereby amended to delete and repeal in its entirety the present wording and substitute therefor the following:

CHAPTER 14

MASSAGE ESTABLISHMENTS

SECTION:

- 7-14-1: Definitions
- 7-14-2: Business License Required
- 7-14-3: Application for Massage Establishment Business License
- 7-14-4: Issuance of License for a Massage Establishment
- 7-14-5: Approval or Denial of Application
- 7-14-6: Posting of License
- 7-14-7: Register of Employees
- 7-14-8: Revocation or Suspension of License
- 7-14-9: Revocation of Massage Therapist License
- 7-14-10: Facilities Necessary
- 7-14-11: Operating Requirements
- 7-14-12: Persons Under Age 18 Prohibited On Premises
- 7-14-13: Alcoholic Beverages Prohibited
- 7-14-14: Hours
- 7-14-15: Employment of Massage Therapist
- 7-14-16: Inspection Required
- 7-14-17: Unlawful Acts

7-14-18: Sale or Transfer or Change of Location

7-14-19: Name and Place of Business

7-14-20: Transfer of License

7-14-21: Violation and Penalty

7-14-1: DEFINITIONS:

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

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

(b) **Licensee.** The person to whom a license has been issued to own or operate a massage establishment as defined herein.

(c) **“Massage” or “massage therapy”** means a system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage is to enhance the general health and well-being of the mind and body of the recipient. “Massage” does not include the diagnosis of a specific pathology. “Massage” does not include those acts of physical therapy or therapeutic or corrective measures that are outside the scope of massage therapy practice as defined in this Section.

(d) **Massage Establishment.** Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries, or permits to be engaged in or carries on any of the activities mentioned in Subsection (C) of this Section.

(e) **“Massage therapist”** means a person who is licensed by the Illinois Department of Professional Regulation and administers massage for compensation.

(f) **Outcall Massage Service.** Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

(g) **Patron.** Any person over eighteen (18) years of age who received a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(h) **Permittee.** The operator of a massage establishment.

(i) **Person.** Any individual, partnership, firm, association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

(j) **Sexual or Genital Area.** Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

7-14-2: BUSINESS LICENSE REQUIRED:

(a) Business license required. No person shall engage in or carry out the business of massage unless he has a valid **massage** business license issued by the Village pursuant to the provisions of this Chapter for each and every separate office or place of business conducted by such person. However, where individuals possessing the license required in Subsection (B), below, perform massage in their own homes, or for an individual client in the home of that client, no business license shall be required for the premises. When a licensee performs massage in his or her own home, the requirements of the Orland Park Land Development Code pertaining to home occupations shall be met in addition to the requirements of this Chapter.

(b) State License required. No person shall engage in massage for compensation, unless he has a valid State license issued pursuant to 225 ILCS 57/1 et seq., the Massage Licensing Act.

7-14-3: APPLICATION FOR MASSAGE ESTABLISHMENT BUSINESS LICENSE:

Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application under oath with the Village of Orland Park upon a form provided by the **Village Clerk Development Services Department** and pay a nonrefundable annual **business** license fee per Title 7 Chapter 2 (7-2-5) of the Village Code. **which shall be \$100.00 for the initial year, or part thereof, of operation, and \$25.00 for each subsequent year in which none of the information provided on the license application has changed. Copies of the Massage Establishment Business License application shall within five (5) days also be referred to the Building Inspector and the Health Inspector. They shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the Village Clerk concerning compliance with the codes and ordinances of the Village of Orland Park that they administer.** The application, once accepted, shall also be referred to the Police Department for investigation of the applicant's character and qualification. The Police Department will perform the required criminal record check. Background investigations shall require the submission of fingerprints with the cost of the criminal record check (\$100.00) and cost of fingerprint submissions (\$50.00) to be borne by the applicant. Each application shall contain the following information:

(a) A definition of service to be provided.

(b) The location, mailing address and all telephone numbers where the business is to be conducted.

(c) The name and residence address of each applicant [hereinafter all provisions which refer to applicant include an applicant which may be a corporation, limited liability company or partnership].

(1) If applicant is a corporation or limited liability company, the names and residence addresses of each of the officers and directors of said corporation or company and of each stockholder owning more than ten percent (10%) of the stock of the corporation or company, and the address of the corporation or company itself, if different from the address of the massage establishment.

(2) 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 massage establishment.

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

(e) Proof that the applicant is a least eighteen (18) years of age.

(f) Individual or partnership applicant's height, weight, color of eyes, hair and sex.

(g) Copy of identification such as driver's license and social security card.

(h) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints shall be taken by the Chief of Police or his agent. If the applicant is a partnership, limited liability company, or corporation, the Chief of Police shall have the right to require fingerprints of any and all officers, shareholders, directors, partners, members, managers or agents of the entity with the \$50.00 fee for each to be paid by the applicant.

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

(j) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another Village or State, has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(k) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(l) The name and address of each massage therapist who is or will be employed in said establishment, including a copy of their respective licenses as issued by the State Department of Professional Regulation.

(m) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in Subsection (C) wherein the business or profession of massage is carried on.

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

(o) Authorization of 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 the permit.

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

(q) 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 residents of the Village, then the County, then the State of Illinois and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

Upon the completion of the above provided form and the furnishing of all foregoing information the **Village Clerk Police Department** shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the **Village Clerk Development Services Department** of each change in any of the data required to be furnished by this Section within ten (10) days after such change occurs.

7-14-4: ISSUANCE OF LICENSE FOR A MASSAGE ESTABLISHMENT:

The Village of Orland Park shall issue a **business** license for a massage establishment **after** ~~ratification by the Board of Trustees of the Village of Orland Park,~~ if all requirements for a massage establishment described in this Ordinance are met unless it finds:

(a) The correct license fee or other fees or fines owed to the Village of Orland Park have not been tendered to the Village, 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 Village'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 or limited liability company, any of the officers and directors, if the applicant is a corporation or limited liability company; 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, have been

convicted of any of the following offenses or convicted of an offense within the State of Illinois that would have constituted any of the following offenses if committed within the State of Illinois.

(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 amounts to a felony.

The Village of Orland Park may issue a license to any person convicted of any of the crimes described in Subsections (1), (2) or (3) of this Section if it finds that such conviction occurred at least ten (10) 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 a crime or crimes mentioned in this Section.

(d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact or failed to disclose required information or a fact in the license application or in any document required by the Village in conjunction therewith.

(e) The applicant has had a massage business, massage therapy, or other similar permit or license denied, revoked, or suspended by the Village 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 limited liability company; 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.

7-14-5: APPROVAL OR DENIAL OF APPLICATION:

The Village of Orland Park shall act to approve or deny an application for a license under this Chapter within a reasonable period of time. ~~and in no event shall the Village of Orland Park act to approve or deny said license later than 90 days from the date that said application was accepted by the Village.~~ Every license issued pursuant to this Chapter will terminate at the ~~expiration of one year from the date of its issuance~~ end of the calendar year unless sooner suspended or revoked.

7-14-6: POSTING OF LICENSE:

(a) Every massage therapist shall post his/her State License in his/her work area.

(b) Every person, corporation, limited liability company, partnership, or association licensed under this Ordinance shall display such license in a prominent place.

7-14-7: REGISTER OF EMPLOYEES:

The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time, as well as a list of all massage therapists and a copy of their licenses.

Such register shall be available at the massage establishment to representatives of Village of Orland Park during regular business hours.

7-14-8: REVOCATION OR SUSPENSION OF LICENSE:

Any license issued for a massage establishment may be revoked or suspended by the Village of Orland Park after notice and a hearing, for good cause, or in any case where any of the provisions of this Chapter are violated or where any employee of the licensee, including a massage therapist 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 permit may also be revoked or suspended by the Village of Orland Park after notice and hearing, upon the recommendations of the Health Inspector that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. Such revocation proceedings shall be as prescribed by Village Board of Trustees of the Village of Orland Park.

7-14-9: REVOCATION OF MASSAGE THERAPIST LICENSE:

A massage therapist license issued by the State shall be revoked or suspended in accordance with the Massage Licensing Act. The Chief of Police shall report any and all suspected violations to the Massage Licensing Board and the Department of Professional Regulation.

(Note: Items in two sections eliminated below are covered by our normal Building, Plumbing and Electrical Codes.)

7-14-10: FACILITIES NECESSARY:

No license to conduct a massage establishment shall be issued unless an inspection by the Village of Orland Park reveals 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 waterproof with approved waterproofed materials and shall be installed in accordance with the Village of Orland Park Building Code or Ordinance. Plumbing fixtures shall be installed in accordance with the Village Plumbing Code or Ordinance.

(1) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the Village of Orland Park.

(2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sanitary 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 heat rooms to facilitate cleaning.

(b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(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 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 and with sanitary towels.

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

7-14-11: OPERATING REQUIREMENTS:

(a) Every portion of the massage 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, including massage therapists, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage 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 massage 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 massage establishment granted a license under the provisions of this Chapter 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 massage services.

7-14-12: PERSONS UNDER AGE 18 PROHIBITED ON PREMISES:

No person shall permit any person under the age of eighteen (18) years, **unless with a guardian,** to come or remain on the premises of any massage business establishment, as massage therapist, employee, or patron, unless such person is on the premises on lawful business other than as a massage therapist, employee or patron.

7-14-13: 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 in the portion of any business premises used in any way for or by a massage business.

7-14-14: HOURS:

No portion of any business premises used in any way for or by a massage business shall be kept open for any purpose between the hours of 10:00 PM and 8:00 AM.

7-14-15: EMPLOYMENT OF MASSAGE THERAPIST:

No person shall employ as a massage therapist any person unless said employee has obtained and has in effect a State License issued pursuant to the Massage Licensing Act.

7-14-16: INSPECTION REQUIRED:

The Chief of police or his authorized representatives shall from time to time make inspection of each massage business establishment for the purposes of determining that the provisions of this Chapter 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.

7-14-17: UNLAWFUL ACTS:

(a) It shall be unlawful for any person, in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her 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.

(b) It shall be unlawful for any person, in a massage establishment, 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 establishment, 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 establishment, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

(d) It shall be unlawful for any person owning, operating or managing a massage establishment, knowingly to cause, allow or permit in or about such massage establishment, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (A), (B), (C) or (D) of this Section.

(e) It shall be further unlawful for any permittee under this Chapter to administer massage except within an establishment licensed to carry on such business under this Chapter, or in the permittee's or the client's home. Outcall massage service as described in Subsection 7-14-1(f) of this Chapter is prohibited except in the client's own home.

(f) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked. Toilets and cubicles used solely for the application of liquid and vapor baths shall be clearly marked as to purposes on the exterior door or curtain of said cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of statutes or ordinances concerning the maintenance of premises, or to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments.

7-14-18: SALE OR TRANSFER OR CHANGE OF LOCATION:

Upon sale, transfer or relocation of a massage establishment, the license therefor shall be null and void unless approved as provided in Section 7-14-3 provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir, beneficiary or legal representative of a deceased licensee, or any guardian of an heir or beneficiary of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license.

7-14-19: NAME AND PLACE OF BUSINESS:

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

7-14-20: TRANSFER OF LICENSE:

No license shall be transferable except with the consent of the Village of Orland Park ~~and ratified by the Board of Trustees of the Village of Orland Park~~. An application for such transfer shall be in writing and shall be accompanied by fees prescribed in Section 7-14-3. The written application for such transfer shall contain the same information as requested herein for initial application for the license.

7-14-21: VIOLATION AND PENALTY:

Every person, 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, who in any way, directly or indirectly, gives massages or operates a massage establishment or provides any of the services defined in this Chapter without first obtaining a license and paying a fee to do so in accordance with this Chapter, or whosoever shall violate any provisions of this Chapter shall be guilty of a misdemeanor and upon conviction such person shall be punished by a fine not to exceed \$750.00.

SECTION 2

All ordinances in conflict with this Ordinance are hereby repealed to the extent of the conflict.

SECTION 3

This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

SECTION 4

The Village Clerk is hereby ordered and directed to publish this Ordinance in pamphlet form, said pamphlet to be deposited in the office of the Village Clerk for general distribution.