

CITY OF CRYSTAL LAKE

ORDINANCE NO. 7437-255J

AN ORDINANCE ADOPTING CHAPTER 335 OF THE CRYSTAL LAKE ILLINOIS  
MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS

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Adopted by the  
Mayor and City Council  
of  
the City of Crystal Lake  
McHenry, Illinois  
this 20th day of February, 2018

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**ORDINANCE NO.7437-255J**

**AN ORDINANCE ADOPTING CHAPTER 335 OF THE CITY OF CRYSTAL LAKE ILLINOIS MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS**

**WHEREAS**, the regulation of massage establishments is a matter of growing importance to prevent the proliferation of unlawful conduct and to prevent such establishments from being used for the purposes of prostitution in violation of the Illinois Criminal Code; and

**WHEREAS**, the City of Crystal Lake is a home rule unit of local government pursuant to Article VII, Section 6 of the Illinois Constitution of 1970 and may exercise any power and legislate as to matters which pertain to its local government and affairs; and

**WHEREAS**, massage establishments directly affect the public health, safety and welfare of the residents of the City of Crystal Lake; and

**WHEREAS**, in addition to those powers conferred upon the City of Crystal Lake as home rule unit of local government, the Illinois Municipal Code provides that the Corporate Authorities of the City of Crystal Lake Illinois may define, prevent, and abate nuisances, 65 ILCS 5/11-60-2; and

**WHEREAS**, prostitution and obscenity are nuisance problems associated with massage establishments and the licensing of massage establishments assists to prevent and abate such nuisances; and

**WHEREAS**, the City of Crystal Lake is authorized do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases; and

**WHEREAS**, prostitution is a problem associated with massage establishments and the licensing of massage establishments assists to prevent prostitution and the spread of sexually transmitted diseases; and

**WHEREAS**, massage therapists are licensed by the Illinois Department of Financial and Professional Regulations pursuant to the Massage Licensing Act, 225 ILCS 57/1, *et seq.*, however the Illinois Department of Financial and Professional Regulations does not regulate massage establishments; and

**WHEREAS**, the Corporate Authorities of the City of Crystal Lake desire to protect the public health by preventing the spread of diseases through unsanitary practices and facilities; and

**WHEREAS**, the City of Crystal Lake Illinois is authorized to enact such ordinances as they will assist in the prevention of prostitution within the corporate boundaries of the City of Crystal Lake; and

**WHEREAS**, Crystal Lake, as a home rule authority and as expressly permitted by the Illinois Municipal Code may classify, regulate and restrict the location of trades and industries and the locations of buildings designed for specified industrial, business, residential, and other uses, 65 ILCS

ILCS 5/11-13-1(4), and further to prohibit uses, buildings, or structures incompatible with the character of such districts 65 ILCS 5/11-13-1(7). Accordingly, the City of Crystal Lake may zone and regulate where such businesses may be conducted; and

**WHEREAS**, Crystal Lake as a home rule authority and as expressly permitted by the Illinois Municipal Code may license, tax, regulate, or prohibit theatricals and other exhibitions, shows and amusements and may license, tax, and regulate all places for eating or amusement, 65 ILCS 5/11-42-5. Accordingly, the City of Crystal Lake may regulate nontherapeutic massage establishments that constitute a recreation; and

**WHEREAS**, Crystal Lake as a home rule authority and as expressly permitted by the Illinois Municipal Code may do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases, 65 ILCS 5/11-20-5. Accordingly, the City of Crystal Lake may regulate massage establishments to prevent prostitution and the spread of sexually transmitted diseases; and

**WHEREAS**, the Corporate Authorities of the City of Crystal Lake have determined that it is in the interest of the public health, safety and welfare of the citizens of the City of Crystal Lake to regulate massage establishments.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Crystal Lake, McHenry County, Illinois, as follows:

**SECTION 1:** The foregoing recitals are true and correct and are incorporated into the text of this ordinance as its findings to the same extent as if each such recital had been set forth herein in its entirety.

**SECTION 2:** The Municipal Code of the City of Crystal Lake is hereby amended to add Chapter 335 to be entitled "MASSAGE ESTABLISHMENTS" which shall hereinafter provide as follows:

## **ARTICLE IX. MASSAGE ESTABLISHMENTS**

### **Sec. 335-1. - Definitions.**

For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Massage Therapist* – Any person licensed by the Illinois Department of Financial and Professional Regulation, who, for consideration or gratuity whatsoever, engages in the practice of massage as defined herein.

*License.* A massage establishment license as provided in this article.

*Massage.* Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft tissues of the body with the hands or with aid of any mechanical, electrical apparatus or appliances 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 used in this practice.

*Massage establishment.* Any establishment that provides massage therapy, employs at least one licensed massage therapist, and does not offer illicit sexual services under the guise of therapeutic massage. This shall include any establishment having a fixed place of business where any person, firm, association, partnership, or corporation engages in, carries on or permits to be engaged in, carried on any of the activities mentioned in the definition of massage, including but not limited to what are commonly known and referred to as spas, suntan spas, parlors, bathhouses and massage parlors. A massage business shall not include any accredited educational facility that teaches massage therapy or massage techniques, nor shall it include any licensed health care facilities, or establishment of duly licensed doctors. A massage establishment may employ only persons that have a state license issued by the Illinois Department of Professional Regulation pursuant to the Illinois Massage Licensing Act, 225 ILCS 57/1 et seq., as it may be amended from time to time, to engage in the practice of massage. An establishment whose primary business is beauty salon, barber shop or similar which offers massage limited to the head, neck, shoulders, hands, feet and legs below the knee, which does not have the clients disrobe are not considered massage establishments.

*Patron.* An individual who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore.

*Person.* Any individual, partnership, association, joint stock company, limited liability company, corporation or combination of individuals of any form, kind or character whatsoever.

*Sexual or genital area.* The genitals, pubic area, anus or perineum of any person; or the vulva or breasts of any female.

### **Sec. 335-2. - License required.**

*Massage establishment license required.* It shall be unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the City, the business of operating a massage establishment without having first obtained a valid and current license therefore issued by the City pursuant to the terms of this article. A separate license shall be required for each massage establishment location regardless of whether multiple establishments are operated by the same person.

### **Sec. 335-3. - Application for massage establishment license.**

(a) An application for a massage establishment license as required in section 335-2 hereof shall be filed with the Director of Community Development or his/her designated representative. The application shall be made in writing upon a form provided by the Director of Community Development or his/her designated representative 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, that all of the information in the application is complete, true and correct and shall include but shall not be limited to the following:

(1) The name and type of ownership of the business, i.e., whether individual, partnership, limited liability company, corporation, or otherwise.

(2) The name under which the business is to be conducted, including any trade name(s) or assumed business name(s).

(3) The location and description of the premises or place of business which is to be operated under such license as well as all telephone numbers where the business is to be operated.

a. 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.

b. 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 a trust.

c. Whether any other activities or business will be conducted at the same location and the physical facilities to be used.

(4) In the case of an individual, the full name, residence address with zip code, date of birth, gender 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, residence address with zip code, date of birth, gender and a physical description including height, weight, color of hair and eyes of all partners (whether general or limited) and any other persons entitled to share in the profits thereof.

(6) In the case of a limited liability company or corporation, the purpose for which said limited liability company or corporation is organized, the full name, residence address with zip code, gender, date of birth and a physical description including height, weight, color of hair and eyes of all members and managers of the limited liability company, the directors and officers of the corporation and/or of all persons acting as managers or assistant managers or other persons principally in charge of the operation of the Massage Establishment situated or to be situated in the City.

(7) The date of formation of the partnership or limited liability company, if a partnership or limited liability company, 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 copy of the state issued ID of all licensed massage therapists engaged in massage at the massage establishment, as well as current copies of the licenses of all licensed massage therapists.

(9) A complete list of the full name, residence address with zip code, date of birth, gender and a physical description of the managers, assistant managers or other persons principally in charge of the operation of the massage establishment including height, weight, color of hair and eyes of the managers, assistant managers or other persons principally in charge of the operation of the massage establishment.

(10) The business, occupation, employment of applicant, if an individual, for three (3) years preceding the date of application.

(11) Whether applicant or its duly authorized agent, if not an individual, ever made an application for a license under this article, or a massage business license or similar license to a state or county, City or other unit of local government and was denied or not granted such license, and if so, where and when, and the reasons for the denial or why such license was not granted.

(12) Whether a license issued to the applicant or its duly authorized agent, if not an individual, under this article, or a massage business license or similar license issued by any state or county, city or City or other unit of local government, has ever been suspended or revoked and the reasons for the suspension and/or revocation.

(13) Whether the applicant or its duly authorized agent, if not an individual, has ever plead guilty or been found guilty of a violation of any of the provisions of this article or any ordinance of any other Illinois municipality or unit of government which regulates massage establishments or the providing of massages, or any Illinois statute regulating massage establishments or massage therapy.

(14) A complete statement of all instances in which the applicant has plead guilty or has been found guilty under the laws of any state or under the laws of the United States as provided in this section. If the applicant is a limited liability company or corporation, the statement shall include applicant's duly authorized agent and all of the applicant's members, managers, officers and directors, and all persons acting as managers or assistant managers or other persons principally in charge of the operation of the Massage Establishment. If the applicant is a partnership, such statement shall include all general partners and any limited partner. Such listing shall include the following:

a. Any offense involving sexual misconduct with children or other sex offenses as defined in Chapter 720 ILCS 5/1-1 et seq.

b. Any felony based upon conduct or involvement in such related business activity or similar business activity.

c. Any felony unrelated to conduct or involvement in such related business activity or similar business activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs or controlled substances, or violence against another person, including rape or other sexual misconduct.

d. Any misdemeanor or licensing ordinance violation, based upon conduct or involvement in such related business activity or similar business activity.

(b) Except in the case of an application for a renewal of a license and fingerprints are already on file for all persons who are required to provide a complete set of fingerprints, the applicant shall submit a complete set of fingerprints with the application. If the applicant is a corporation, partnership or limited liability company, fingerprints must be submitted for all persons acting as managers or assistant managers or other persons principally in charge of the operation of the

Massage Establishment. The owners, partners and principal managers of any other legal entity entitled to do business in the state shall also be fingerprinted. The City may, in its sole discretion, either require the applicant to have his/her fingerprints taken and submitted for processing by the Illinois State Police and direct that the results be sent directly to the City, c/o the Chief of Police or the City may require that all such fingerprinting shall be done by the City Police Department. If the City does the fingerprinting then the 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 City, 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 a copy of identification which shall include but shall not be limited to a driver's license, if any, and two copies of a current portrait photograph of the applicant at least two (2) inches by two (2) inches. The portrait shall include the head and shoulder area with the face forward pose. A new and current portrait shall be required with each renewal application. If the applicant is a corporation, partnership or limited liability company, the identification and the portrait must be submitted for each person acting as a manager or assistant manager or other person principally in charge of the operation of the Massage Establishment. The City, in its sole discretion, may require that any portrait photograph required by these provisions be taken by the City Police Department.

(e) The applicant shall submit proof of professional and/or general liability insurance in the minimum amount of \$1,000,000 per occurrence.

(f) The applicant shall submit a current copy of any draping protocols, sexual conduct policies or other similar policies and procedures for the proposed massage establishment.

(g) The applicant shall submit such other information, documentation, and identification of the applicant as the Director of Community Development or his/her designated representative and/or the Chief of Police shall deem necessary to determine the identity of the applicant or to process the application.

#### **Sec. 335-4. - Limitation and restriction on issuance and renewal of license.**

Upon receipt of a properly completed application including payment in full of all fees in connection therewith for a massage establishment license, the Director of Community Development or his/her designated representative shall submit the completed application to the Chief of Police or his/her designated representative for evaluation. Upon receiving the application for a massage establishment license, the Chief of Police, or his/her designated representative, shall conduct an investigation.

The Director of Community Development or his/her designated representative shall request the premises be inspected by or on behalf of the Fire Rescue Department, the Building Commissioner, the appropriate health inspector and any other applicable department or inspector to assure that the proposed operation complies with all applicable laws, including building, electrical, plumbing,

health, housing, zoning, and fire codes of the City and any other regulations of the City relating to the public health, safety and welfare. The appropriate departments and/or inspectors shall inspect the premises proposed to be operated as a massage establishment, make an investigation of the application and make written recommendations to the Director of Community Development or his/her designated representative concerning compliance with City codes and federal or state laws. The Chief of Police or his/her designated representative shall promptly deliver to the Director of Community Development or his/her designated representative all of the written recommendations along with his written recommendation with respect to whether the application for a license should be approved, denied or held for further review.

Within forty-five (45) days of the date that a fully completed application, including payment of all fees therefore is filed, the Director of Community Development or his/her designated representative shall issue a license if he or she has received a recommendation of approval from the Chief of Police and provided that all of the requirements of this article have been satisfied, or the Director of Community Development or his/her designated representative shall notify the applicant in writing that the application has been denied or is held for further review. The period of such additional review shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional review, and after receiving the above described written recommendations from the Chief of Police or his/her designated representative, the Director of Community Development or his/her designated representative shall advise the applicant in writing whether the application is granted or denied consistent with the recommendation of the Chief of Police or his/her designated representative. 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 City Code which is applicable to the business and/or activities of the applicant.

(1) No massage establishment license shall be issued to or renewed for:

a. An applicant, where the applicant or its duly authorized agent, or any of the applicant's members, managers, officers, directors, limited partners, general partners, or any persons acting as managers or assistant managers or other persons principally in charge of the operation of the Massage Establishment has pled guilty to or has been found guilty of any one or more of the following offenses:

1. Any offense involving sexual misconduct with children or other sex offenses as defined in Chapter 720 ILCS 5/1-1 et. seq.

2. Any felony based upon conduct or involvement in such related business activity or similar business activity, within the past ten (10) years.

3. Any felony unrelated to conduct or involvement in such related business activity or similar business activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs or controlled substances, or violence against another person, including rape or other sexual misconduct, within the past five (5) years.

4. Any misdemeanor or licensing ordinance violation by any state or other unit of local government based upon conduct or involvement in such related



business activity or similar business activity, within the past five (5) years of the date of the application including but not limited to the denial, suspension or revocation of such a similar license by any state or other unit of local government within five (5) years of the date of the application.

b. An applicant whose license issued under this article has been revoked for cause or the applicant has been found guilty of any violation of any provision of this article.

c. An applicant who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

d. An applicant under the age of eighteen (18) years of age.

e. An applicant who has failed to submit a complete application and who has failed to cure the defect(s) within ten (10) days after written notice of any such failure to cure. Unless additional time is granted by the City.

f. An applicant who has been convicted of any other criminal offense involving dishonesty, fraud, deceit or moral turpitude within five (5) years of the date of the application.

g. An applicant who has knowingly made or provided false, misleading or fraudulent statements or information to the City to disclose information required in the license application.

(2) In addition to the provisions in subsection (1) above, no massage establishment license shall be issued to or renewed for:

a. An applicant who is not an owner or a beneficial owner of the business to be operated by the licensee.

b. A partnership, if any general partners thereof, or any limited partner owning any interest in such partnership has pled guilty to or has been found guilty of any one or more of the offenses listed in this article.

c. A corporation or limited liability company, if any officer, manager or director, of such limited liability company or corporation has pled guilty to or has been found guilty of any one or more of the offenses listed in this article.

d. A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act 805 ILCS 5/1.01 et. seq. to transact business in the state.

e. An applicant if the premises in which the massage establishment is to be operated shall not be in compliance with all applicable codes and ordinances of the City, including but not limited to, zoning, building, and life safety codes.

**Sec. 335-5. - Review by the City Manager of denial of an application for a license.**

The denial by the Director of Community Development or his/her designated representative to issue a license pursuant to an application made therefore shall be subject to review by the City Manager or his/her designated representative provided that a request for such review is made in writing by the applicant to the City Manager or his/her designated representative within ten (10) days of the issuance of the written denial of the application. The City Manager or his/her designated representative shall conduct a hearing to review the application submitted to the City by the applicant, the report of the Chief of Police or his/her designated representative and/or any other reports of inspections made and of any other relevant facts and evidence determined. The applicant may present any relevant evidence in support of his/her request that the denial of the application be reviewed and reversed. The City Manager or his/her designated representative shall determine whether the denial of the application shall be affirmed or whether the denial shall be reversed and the application approved. If the City Manager or his/her designated representative reverses the decision and approves the application, the license applied for shall be issued. The decision of the City Manager or his/her designated representative to affirm the denial of the application shall be final and subject to judicial review only by a court of competent jurisdiction to the extent otherwise provided by law.

**Sec. 335-6 – Suspension or revocation of massage establishment license.**

(a) Any license issued for a massage establishment may be suspended for a period not to exceed thirty (30) days by the Chief of Police or his/her designated representative upon written notice to the license holder, which notice shall state a basis or charge as listed in Section 335-6 (b) below. The notice shall be served by mailing a copy thereof by regular U.S. Mail, addressed to the licensee at the address of the licensed premises and shall be deemed served on the date of mailing (the "service date") and/or by delivering a copy of the notice to the manager of the licensed premises or to any other employee on the licensed premises. The massage business shall not operate under a suspended license. The license holder may request in writing a hearing before the City Manager or his/her designated representative within ten (10) days of the service date. If a written request for a hearing is not made within ten (10) days of the service date, the Chief of Police or his/her designated representative may revoke any license permanently.

(b) The Chief of Police or his/her designated representative may suspend or revoke a license if he/she determines that any one or more of the following have occurred:

- (1) A licensee has violated or is not in compliance with the provisions of this article
- (2) A licensee has knowingly allowed prostitution, as defined by the Illinois Criminal Code, or allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, bestiality, prostitution, or flagellation to occur in or on the licensed premises. If any employee has been charged with prostitution or engaged in any of the other acts as listed above, the licensee is assumed to be knowledgeable of the activity.

(3) A licensee will be revoked knowingly conducted or allowed to be conducted massage activities in the City during a period of time when the licensee's license was suspended.

(4) There is no licensed massage therapist employed by the licensee or otherwise engaged or committed to provide massage services on the licensed premises.

(5) A licensee or its authorized agent knowingly advertises for the providing of services within the massage establishment which are unlawful.

(6) Any employee of the licensee, including a licensed massage therapist, is engaged in any conduct at licensee's place of business which violates any of the provisions of this article, any Unlawful Acts as stated in Section 335-19, or any other ordinances of the City relating to the license, the licensed premises, or any state law.

(7) Where any applicant has committed any fraud, misrepresentation or made a false statement on an application for a license under this article.

(8) In any case where the licensee refuses to permit any duly authorized police officer or inspector of the City to inspect the premises or the operations therein.

(9) The failure or refusal of the licensee to pay any fine, penalty or charge owed to the City.

(10) In the event that the licensee would not now qualify for the issuance of a license or the renewal thereof

(11) By the recommendations of the health officer that such business is being managed, conducted, or maintained without regard for the public health or health of patrons or without due regard to proper sanitation or hygiene.

(12) The licensee shall be deemed to have actual or constructive knowledge of any violations hereinabove set forth if they occur on the licensed premises by any person(s) acting as an agent or otherwise receiving compensation. Such license may also be suspended by the Director of Community Development or his/her designated representative upon the recommendations of the health officer that such business is being managed, conducted, or maintained without regard for the public health or health of patrons or without due regard to proper sanitation or hygiene. The licensee shall be permitted to present any relevant evidence bearing on the alleged violations set forth in the notice

(c) Any decision of the Chief of Police or his/her designated representative to suspend or revoke a license may be appealed to the City Manager or his/her designated representative by the licensee by a request in writing therefore made to the City Manager or his/her designated representative within ten (10) days of the issuance by the City Manager of any

order of suspension. The City Manager or his/her designated representative shall review the record of the hearing held before the City Manager or his/her designated representative if any was held or if no hearing was held, the basis for such order of suspension, and based upon such review shall make a decision to either affirm or reverse the decision of the Chief of Police or his/her designated representative to suspend the license. If the City Manager or his/her designated representative decides to affirm the decision to suspend the license, he or she may also modify the term of the suspension provided that in no event shall the suspension exceed thirty (30) days. Any suspension ordered by the provisions hereof shall be stayed until all administrative appeals made to officials of the City as provided herein (and not including any appeal of a decision of a City official made to any court of competent jurisdiction) have been concluded. The decision of the City Manager or his/her designated representative to affirm or reverse a suspension shall be final and subject to judicial review only by a court of competent jurisdiction to the extent otherwise provided by law.

(d) Any order to suspend or revoke a license shall be stayed until all administrative appeals made to officials of the City as provided herein (and not including any appeal of a decision of a City official made to any court of competent jurisdiction) have been concluded. The decision of the City Manager or his/her designated representative shall be final and subject to judicial review only by a court of competent jurisdiction to the extent otherwise provided by law.

(e) Any licensee whose license has been revoked is barred from applying for a new license.

Any suspension or revocation of the license, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable provisions of this article or other ordinances of the City.

Any suspension or revocation of the license, if ordered, shall not be deemed to limit or otherwise restrict the operation of other activities of the business being conducted within the licensed premises which are unrelated to massage.

#### **Sec. 335-7. - Facility requirements.**

No license to conduct a massage establishment shall be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:

(1) 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 Illinois Plumbing Code and the City building code. Plumbing fixtures shall be installed in accordance with the Illinois Plumbing Code and City plumbing code.

a. A utility sink or mop basin with a source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(2) Restrooms, including toilet facilities, shall be provided which meet all of the current plumbing code requirements.

(3) If dressing or locker facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, segregated dressing, locker and massage room facilities shall be provided.

(4) All equipment shall be installed in accordance with the requirements of the current City codes.

(5) The massage establishment premises shall be in compliance with all applicable codes and ordinances of the City, including but not limited to, zoning, building and life safety codes.

**Sec. 335-8. - Operating requirements.**

(a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) No use of residential furniture in the space, which includes dressers, beds, sofas, etc., for habitation purposes.

(c) Price rates for all massage services shall be prominently posted and/or pricing sheets shall be available for review to all prospective patrons, at the front desk and/or in the massage treatment areas. A placard must also be posted and visible in the massage treatment area or in a location available to all prospective patrons advising: "No massage services other than those posted or listed on a pricing sheet available for customer review shall be provided for any compensation whatsoever. There shall be no bargaining or solicitation for massage services between patrons, massage therapists, and/or employees."

(d) All employees, including licensed massage therapists, shall be clean and shall be fully covered by wearing clean, nontransparent outer garments, completely covering the sexual and genital areas.

(e) 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.

(f) No massage establishment granted a license under the provisions of this article shall place, publish or distribute or cause to be placed, published 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 massage services.

(g) Eating in the massage work areas shall not be permitted. Animals, except seeing-eye dogs, shall not be permitted in the massage work areas.

(h) The sexual or genital areas of patrons shall be completely covered at all times when in the presence of an employee of the massage establishment or any licensed massage therapist.

(i) No licensed massage therapist or massage establishment employee or agent shall administer a massage to any part of a patron's body which exhibits a skin fungus, skin infection, skin

inflammation or skin eruption, unless a physician duly licensed in the state has certified in writing, that such patron may safely be massaged on that area and prescribing the conditions thereof.

(j) Each licensed massage therapist shall wash his or her hands in hot running water with proper disinfectant before administering a massage to each patron.

(k) No massage establishment licensee under the provisions of this article shall knowingly permit any person to remain in or upon the licensed premises who commits any act of public indecency or obscenity as provided in this Code or as provided in the Illinois Criminal Code.

(l) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets and shall be dispensed in unit doses so that bulk containers are not contaminated between clients.

(m) Each massage establishment shall operate in compliance with all applicable local, state and federal laws and regulations, including but not limited to any such laws and regulations relating to discrimination based on race, color, religion, national origin, gender, disability or age.

**Sec. 335-9. - Manager on premises.**

At all times during the operation of a massage establishment, while massage activities are taking place, there shall be present a manager, assistant manager or other persons principally in charge of the operations of the licensee, and a licensed massage therapist, each of whom shall not be less than eighteen (18) years of age. A licensed massage therapist may also serve as a manager, assistant manager or person principally in charge.

**Sec. 335-10. - 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 on the premises of any massage establishment and no massage establishment shall be located on any premises for which a license to sell alcoholic liquor has been issued.

**Sec. 335-11. - Hours of operation.**

No massage establishment shall be open for business or in operation between the hours of 9:00 p.m. and 7:00 a.m., except to complete massage services scheduled and initiated prior to 8:30 p.m.

**Sec. 335-12. - Employment of massage therapist.**

No person shall employ as a massage therapist any person unless said person is a properly licensed massage therapist pursuant to Illinois law and the Massage Licensing Act, 225 ILCS 57/1, *et seq.*

**Sec. 335-13. - Display of license.**

The massage business license and the massage therapy license of each and every licensed massage therapist employed in the massage establishment shall be displayed in an open and conspicuous place in the massage establishment or available upon request.

**Sec. 335-14. - Inspection of massage establishments.**

Whenever inspections of the premises used for or in connection with the operation of a licensed massage establishment are provided for or required by this article, or any ordinance of the City or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of the City, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto for the purpose of making the inspection any officer or employee of the City who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested. Each such inspection shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer(s) access to the premises or to hinder such officer(s) in any manner.

**Sec. 335-15. - Name and place of business.**

No person granted a license hereunder shall operate the massage establishment under a name not specified in the license, nor shall the business be conducted under any different designation or at any location not specified in the massage establishment license.

**Sec. 335-16. - Transfer-changes in ownership or management.**

(a) Any license issued pursuant to this article shall be applicable only to the specific licensee and location designated, and may not be sold, transferred, or otherwise assigned. Notwithstanding the foregoing, if the licensee remains the same and a request is made to designate and substitute a different location, the Director of Community Development or his/her designated representative may approve such new location upon submission of proof that such location is in compliance with all of the provisions of this article and receives zoning approval. A fee of fifteen dollars (\$15.00) shall be required for processing a request to change the location of the massage establishment.

(b) A transfer in the ownership or control of a massage establishment shall constitute a change in the licensee and the existing license shall be deemed surrendered and extinguished. A new application for license shall be filed and processed as provided in this article prior to such transfer taking effect. Any transfer in the ownership or control of a massage establishment in violation of this article shall constitute the operation of an unlicensed massage establishment.

(c) Notice shall be provided prior to any change of the designated manager conducting business for the massage establishment licensee. The new manager must be qualified to operate the massage establishment as provided in this article. The licensee shall, not less than ten (10) business days before such change is to take effect, give the Director of Community Development or his/her designated representative notice of such change. The notice shall include any information concerning the new manager which is required in this article.

**Sec. 335-17. - Exemptions.**

The provisions of this article shall not apply and no license shall be required for any units of government, hospitals, nursing homes, and sanitariums or for any individual while engaged in the personal performance of their respective professions provided such individual is holding an unrevoked certificate to practice the healing arts under the laws of the state, including but not limited to physicians, surgeons, chiropractors, osteopaths, physical therapists, nurses, paramedics, state registered athletic licensees who administer athletic related massages in the normal course of training duties or to those working under the direction of any such individuals in any such units of government, hospitals, nursing homes and sanitariums.

**Sec. 335-18. - License fee and period of license.**

(a) The fee for the original application for a massage establishment shall be fifty dollars (\$50.00). There shall be no fee for each renewal application. This amount shall be non-refundable. All fees shall be paid at the time each application is submitted to the City. No application shall be processed without the payment in full of the applicable fees even if the application is made for a period of less than a full year.

(b) Commencing with May 1, 2018, each license year shall commence on May 1 of each year and shall expire on April 30 of the following year unless an application is submitted after May 1 for any year (but before April 30 in the following year) in which case the license shall commence when issued but shall expire on the 30th day of April following the date of issuance.

(c) An application for the renewal of a license shall be submitted not later than forty-five (45) days prior to the expiration of the license.

**Sec. 335-19. - Unlawful acts.**

(a) It shall be unlawful for any individual, in a massage establishment, to knowingly 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 area or part of any other person.

(b) It shall be unlawful for any individual, in a massage establishment, to knowingly allow a patron of the 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 area or part of any licensed massage therapist or any other employee of the massage establishment.

(c) It shall be unlawful for any individual, in a massage establishment, to expose his or her sexual or genital area or part, or any portion thereof, to any other individual.

(d) It shall be unlawful for any individual, while in the presence of any other individual in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital area or part of his or her body.

(e) It shall be unlawful for any agent, employee or representative of a massage establishment, while in the presence of a patron in the massage establishment, to wear clothing that is not modest, professional and appropriate for street wear.



(f) It shall be unlawful for any individual owning, operating, or managing a massage establishment, to knowingly cause, allow or permit in or about such massage establishment any agent, employee, or any other individual under his control or supervision to perform any such acts deemed to be unlawful by the provisions in subsections (a), (b), (c), (d), and (e) of this section.

(g) It shall be unlawful for any person who holds a license to operate a massage establishment within the City to fail to comply with any of the conditions and regulations set forth in this article.

**Sec. 335-20. - Public nuisance.**

Any location used as a massage establishment in violation of this article is hereby declared to be a nuisance.

**Sec. 335-21. - Violation and penalty.**

Every person, except those persons who are specifically exempted by this article, 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 in any way directly or indirectly who gives massages or operates a massage establishment or provides any of the services defined in this article without first obtaining a license and paying a fee to do so from the City or who violates any provision of this article shall upon a finding of guilty be punished by a fine of not less than two hundred fifty dollars (\$250.00) and shall not exceed seven hundred fifty dollars (\$750.00). A separate offense shall be deemed committed on each day during or upon which a violation occurs or continues.

**Sec. 335-22. - Application to existing massage establishments.**

The owner of any massage establishment which was in operation within the City prior to the effective date of the ordinance from which this article derives shall submit a completed application for a license to the Director of Community Development or his/her designated representative, as required by this article, within sixty (60) days of the effective date of this article. In the event that such license is granted, such massage establishment may only be operated, following the granting of such license, in full compliance with the provisions of this article. In the event that such license is denied, or in the event that the owner of a massage establishment fails to submit a completed application within said sixty (60) day period, the massage establishment shall cease all operations effective on the earlier of the third day following the date on which the Director of Community Development or his/her designated representative mails notification of the denial of the license, or the sixty-first (61<sup>st</sup>) day following the effective date of this article in the event that a completed application is not filed (hereinafter, "the termination date") in the event that the massage establishment continues to operate following the termination date, such continued operation shall be deemed to be in violation of the provisions of this article. Any initial license granted to an existing and operational massage establishment after the effective date of this ordinance shall be valid until April 30<sup>th</sup>, 2019.

**SECTION 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith. Each section and provision of this ordinance are hereby declared to be independent divisions and subdivisions and, notwithstanding

any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

**SECTION 4:** All ordinance or parts of ordinance in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5:** This ordinance shall be enforced from and after May 1, 2018.

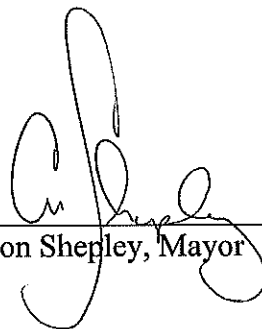
PASSED THIS 20th DAY OF February, 2018.

AYES: 7

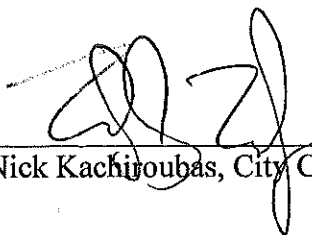
NAYS: 0

ABSENT: 0

APPROVED this 20th day of February, 2018.

  
\_\_\_\_\_  
Aaron Shepley, Mayor

ATTEST:

  
\_\_\_\_\_  
Nick Kachiroubas, City Clerk