

ORDINANCE NO. 20-03-17

AN ORDINANCE AMENDING CHAPTER 5.97 OF THE MUNDELEIN MUNICIPAL CODE TO MODIFY
DEFINITIONS RELATED TO MASSAGE ESTABLISHMENT REGULATIONS

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of the President and Board of Trustees
of the Village of Mundelein, Illinois

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TO MODIFY DEFINITIONS RELATED TO MASSAGE ESTABLISHMENT REGULATIONS**

WHEREAS, the Board of Trustees has determined that it is in the best interests of the Village to amend Section 5.97.010 of the Mundelein Municipal Code to modify the definition of "sexual or genital area" to no longer include the word "buttocks."

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MUNDELEIN, LAKE COUNTY, ILLINOIS, that:

SECTION I. Section 5.97.010, Definitions, is hereby amended to read as follows:

Section 5.97.010 - Definitions.

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

"Applicant" means any person who is at least eighteen years of age and of good moral character, honesty or integrity who files with the Village of Mundelein for a massage establishment license. All owners of the establishment seeking application must be listed as applicants.

"Employee" means any person, other than the licensed massage therapists, who render any service in connection with the operation of a massage establishment and receives compensation from the licensee or its patrons.

"Good moral character" means in determining good moral character, the village may take into consideration conviction of any crime under the laws of the United States or any state or territory thereof that is a felony, misdemeanor, ordinance violation, or any crime that is directly related to the practice of the profession of massage therapy. Such a conviction shall not operate automatically as a complete bar to a massage establishment license, except in the case of any conviction for prostitution, rape, or sexual misconduct, or where the applicant is a registered sex offender. The Village may also consider whether the applicant has at any time violated the provisions of this chapter or any similar ordinance of the Village of Mundelein, or any county or municipality; or, whether the applicant has had a massage establishment, or similar license, in another state, county, or municipality which has been revoked, suspended, or denied by the village or any other county or municipality. Conviction shall include pleas of guilty or findings of guilty in which the individual received probation, conditional discharge, court supervision, deferred prosecution, or similar disposition in any other state, except minor traffic violations.

"Licensee" means the owner and/or operator of a massage establishment.

"Manager" means a person who has control over the operations of a massage establishment.

"Massage" means any method of applying pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body by another individual with the hands, any body part, or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, hot and cold packs, antiseptics, oils, powder, creams, lotions, salt glows, ointments or other similar preparations commonly used in this practice. For purposes of this ordinance, "massage" shall not include the touching of the face, ears, scalp, neck, back, shoulders, hands or feet, or any other massage activities that does not require a patron to disrobe in public view.

"Massage establishment" means any establishment having a source of income or compensation derived from the practice of massage as defined in the massage definition above, and which has a fixed place of business where any person engages in, or carries on, or permits to be engaged in or carried on any of the activities or practices of massage as defined in this ordinance.

"Massage therapist" means any person is licensed by the State of Illinois and engages in the practice of massage as defined herein and provides:

1. Evidence of a professional license issued by the State of Illinois authorizing the practice of massage therapy under the Massage Licensing Act 225 ILCS 57/1, et. al.

A massage therapist shall not include individuals exempted under of the Illinois Massage Licensing Act 225 ILCS 57 or as amended. In addition to the Illinois Massage Licensing Act 225 ILCS 57 the following individuals are exempt.

1. Physicians, chiropractors, osteopaths, podiatric physicians, naprapaths, and physical therapists who are duly licensed to practice their respective professions in the state.
2. Qualified members of other professional groups, including but not limited to nurses, occupational therapists, cosmetologists, and estheticians, who perform massage in a manner consistent with their training and the code of ethics of their respective professions.
3. A student of an approved massage school or program, provided that the student does not hold himself or herself out as a licensed massage therapist and does not receive compensation, including tips, for massage therapy services.
4. Athletic trainers for any athletic program of a private or public school, college or university or for any athletic team regularly organized and engaging in competition.
5. Any other exemptions as defined under Section 25 of the Illinois Massage Licensing Act 225 ILCS 57.

"Off-premises massage" means the activity of providing massage therapy services by a licensed massage therapist, or individuals exempted under Section 25 of the Illinois Massage Licensing Act 225 ILCS 57, for a fee, at a location other than at a massage establishment.

"Owner" means any person of good moral character, honesty or integrity who has any ownership interest in a massage establishment.

"Person" means any individual, co-partnership, firm, association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

"Residence" means the act or fact of living or staying overnight at or in some place for the discharge of a duty or the enjoyment of a benefit.

"Sexual or genital area" means and shall include the genitals, pubic area, anus or perineum of any person or the vulva or breast of a female.

"Village" means the Village of Mundelein.

SECTION II. Severability. If any section, clause, paragraph, or provision of this Ordinance shall be found invalid by a court of competent jurisdiction, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but only that part found invalid by such court.

SECTION III. Repeal of Prior Ordinances. All prior Ordinances in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION IV. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

ADOPTED this 9th day of March, 2020 by a roll call vote as follows:

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| RESULT: | CARRIED [UNANIMOUS] |
| MOVER: | Erich Schwenk, Trustee |
| SECONDER: | Robin Meier, Trustee |
| AYES: | Abernathy, Lambert, Meier, Russell, Schwenk, Semple |



President

ADOPTED: March 9, 2020

APPROVED: March 9, 2020

PUBLISHED in pamphlet form: March 20, 2020

ATTEST: Sol Cabachuela By Peter Vadoelas, Deputy Clerk
Village Clerk