

ORDINANCE NO. 440

VILLAGE OF BELLEVUE, ILLINOIS

AN ORDINANCE AMENDING AND RESTATING REGULATIONS FOR MASSAGE ESTABLISHMENTS AND MASSAGE SERVICES AND PROVIDING A FINE FOR THE VIOLATION THEREOF

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BELLEVUE, PEORIA COUNTY, ILLINOIS:

SECTION 1. That for the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

a.) **MASSAGE:** Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibration or stimulating of the external soft parts of the body with the hands or with the aid of mechanical or electrical appliances or apparatus, with or without supplemental aid of alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.

b.) **MASSAGE ESTABLISHMENT:** Any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any of the activities mentioned in subparagraph a.) hereof.

c.) **OUT-CALL 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.

d.) **MASSEUR or MASSEUSE:** Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

e.) **EMPLOYEE:** Any and all persons other than the masseurs or masseuses who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with customers and clients.

f.) **PERSON:** An individual, copartnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

g.) **HEALTH OFFICER:** The director of the department of health of the County of Peoria or his authorized representative.

h.) **PERMITTEE:** The operator of a massage establishment.

i.) **SEXUAL or GENITAL AREA:** Shall include the genitals, pubic area, buttocks, anus, or the perineum of any person, or the vulva or breasts of a female.

j.) **THE FIRE DEPARTMENT:** The Limestone Fire Protection District, its Chief or designated representative.

k.) **MAYOR:** The Village President of the Village of Bellevue.

SECTION 2. PERMIT REQUIRED. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conduct or carry on, in or upon any premises in the Village of Bellevue, the operation or a massage establishment, as herein defined, without first having obtained a permit from the Mayor.

SECTION 3. FILING OF APPLICATION AND FEE PROVISION. Every applicant for a permit to maintain, operate or conduct a massage establishment shall file an application in duplicate under oath. Within thirty (30) days of the receipt of the applications, the Mayor shall notify the applicant that his application is granted, denied or held for further investigation. The period of such additional investigation shall not exceed an additional thirty (30) days unless agreed to by the applicant. Upon the conclusion of such additional investigation, the Mayor shall advise the applicant in writing whether the application is granted or denied, and if denied, the reason therefore.

Failure of the applicant to promptly give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding the said application or his or her refusal to submit to or cooperate with any inspection required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Mayor.

SECTION 4. APPLICATION FOR MASSAGE ESTABLISHMENT. The application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefor.

In addition, any applicant for a permit including any partner or limited partnership or limited partner applicant, any officer or director of a corporation applicant and any stockholder holding more than ten (10) percent of the stock of a corporate applicant, shall furnish the following information:

1. Name and address.
2. Written proof that the individual is at least eighteen (18) years of age.
3. All residential addresses for the past four (4) years.
4. The applicant's height, weight, color of eyes and hair.
5. The business, occupation or employment of the applicant for the past three (3) years immediately preceding the date of application, both as to full time or part time.
6. The massage or similar business license history of the applicant; whether such person, in previous operating in this or another city, village or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
7. All criminal or municipal ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
8. Photographs of the applicant taken within the past 6 months.
9. If the applicant is a corporation, or a partner of a partnership is a corporation, the name of the corporation shall be set forth exactly as shown in the articles of incorporation, and its list of officers and registered agent.

SECTION 5. ISSUANCE OF PERMIT FOR A MASSAGE ESTABLISHMENT. Upon application, the Mayor shall issue a permit to maintain or conduct a massage establishment, unless he finds:

1. That the operation, as proposed by the applicant, if permitted, would not have complied with all applicable laws, including but not limited to, the building, health, planning, housing, zoning and fire codes; or
2. That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of (a) a felony, (b) an offense involving sexual misconduct with children, or (c) prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, pimping or other offense opposed to decency and morality.

The Mayor, at his discretion, may issue a permit to any person convicted of any of the crimes in subsection 2(a), (b) and (c) if he finds that such conviction occurred at least four (4) years prior to the date of the application, the applicant has had no subsequent convictions and the applicant has shown evidence of rehabilitation sufficient to warrant the public trust.

Every massage establishment permit issued pursuant to this ordinance will terminate at the expiration of one year from the date of issuance, unless sooner suspended or revoked.

SECTION 6. REVOCATION OR SUSPENSION OF PERMIT FOR MASSAGE ESTABLISHMENT. Any permit issued for a massage establishment may be revoked or suspended by the Mayor after a hearing and good cause or in any case where any of the provisions of this ordinance are violated or any employee of the permittee, including a masseur or masseuse, is engaged in any conduct at permittee's place of business which violates any of the provisions of this ordinance or any state law, which provided for imprisonment, and permittee has actual or constructive knowledge of such violations or the permittee should have actual or constructive knowledge by due diligence, or where any applicant has made a false statement on any application for a permit under this ordinance or in any case where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the issuing agency to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the Mayor after hearing 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 customers or without due regard to proper sanitation or hygiene.

Any violations of this ordinance by an employee of the permittee, including a masseur or masseuse, shall be cause for suspension of the permit for not more than thirty (30) days in the first instance. Any subsequent violation of this ordinance by an employee of the permittee, including a masseur or masseuse, shall be cause for suspension or revocation of the permit.

The Mayor, before revoking or suspending any permit, shall give the permittee at least ten (10) days written notice of the charges against him or her and the opportunity for a public hearing before the Mayor, at which time the permittee may present such evidence at the hearing as may bear upon the question. In such cases, the charges shall be specific and in writing.

SECTION 7. MASSEUR OR MASSEUSE PERMIT. Any person, including an applicant for massage establishment permit, who engages in the practice of massage as herein defined, shall file an application for a masseur or masseuse permit with the Mayor and shall pay a nonrefundable filing fee of twenty-five dollars (\$25.00) for an original application and ten dollars (10.00) for a renewal application, to the Village Treasurer, who shall issue a receipt which shall be attached to the application filed with the Mayor.

SECTION 8. APPLICATION FORM FOR MASSEUR OR MASSEUSE PERMIT. The application for a masseur or masseuse permit shall contain the following:

1. Name and residence address.
2. Social Security number, driver's license number, and vehicle license number, if any.
3. Applicant's weight, height, color of hair and eyes.
4. Written evidence that the applicant is at least eighteen (18) years of age.
5. Business, occupation or employment of the applicant for four (4) years immediately preceding the date of application, including all full or part time work.
6. Whether the applicant has ever been convicted of, pleaded nolo contendere to or suffered a forfeiture on a bond charge of committing any crime except minor traffic violations. If the answer is in the affirmative, a statement must be made giving the place and the court in which such conviction plea or forfeiture was had, the specific charge under which the conviction plea or forfeiture was obtained and the sentence imposed as the result thereof.
7. The Mayor or his delegate, shall have the right to take a photograph of the applicant and the right to confirm the information submitted.

SECTION 9. ISSUANCE OF MASSEUR OR MASSEUSE PERMIT. The Mayor may issue a masseur or masseuse permit within twenty-one (21) days following application, unless he finds that the applicant for masseur or masseuse permit has been convicted of: (a) a felony; (b) an offense involving sexual misconduct with children; (c) keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering.

The Mayor, in his discretion, may issue a permit to any person convicted of such crimes if he finds that such conviction occurred at least four (4) years prior to the date of the application and the applicant has had no subsequent convictions.

Every masseur or masseuse permit issued pursuant to this ordinance shall terminate at the expiration of one year from the date of issuance, unless sooner suspended or revoked.

SECTION 10. REVOCATION OF MASSEUR OR MASSEUSE PERMIT. A masseur or masseuse permit issued by the Mayor shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would be cause for denial of the permit upon the original application, has made a false statement on an application for a permit, or has committed an act in violation of this ordinance.

The Mayor in revoking or suspending a masseur or masseuse permit shall give the permit holder a written notice specifying the grounds thereof. Such person may within ten (10) days of such revocation or suspension file a written request with the Mayor for a public hearing before the Mayor, at which time the masseur or masseuse may present evidence bearing upon the question.

SECTION 11. FACILITIES NECESSARY. No massage establishment shall be issued a permit, nor be operated, established or maintained in the Village unless an inspection by the health officer reveals that the establishment complies with each of the following minimum requirements:

1. Construction of rooms used for toilet, tubs, steam baths and showers shall be waterproof;

2. All massage tables, bathtubs, shower stalls, steam or bath areas and floors have surfaces which may readily be disinfected;
3. Adequate bathing, dressing and locker facilities shall be provided patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker rooms and massage room facilities shall be provided;
4. The premises shall have adequate equipment for disinfecting and sterilizing nondisposables, instrument and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after each use on each patron;
5. Closed cabinets shall be provided and used for the storage of linens, towels and other materials used in connection with administering massages. All soiled or used linens, towels and other materials shall be kept in properly covered containers or cabinets, separate from the cleaned storage areas;
6. 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 closes after one toilet has been provided. Toilets shall be designated as to the sex accommodated therein;
7. Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels;
8. The premises shall be equipped with a service sink for custodial services.

The health officer shall certify that the proposed massage establishment complies with all the requirements of this section of this ordinance and he shall send such certificates to the Mayor.

SECTION 12. OPERATING REQUIREMENTS.

1. Every portion of the massage establishment shall be kept clean and operated in a sanitary condition. This includes all materials, instruments and apparatus.
2. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
3. All employees, including masseurs and masseuses, shall wear clean, nontransparent outer garments, covering the sexual and genital areas, adequately and decently, when in the massage areas. 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.

4. 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.
5. The sexual and genital areas of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse.
6. It shall be unlawful for any person knowingly, in a massage establishment, to place his or her open hand upon, or touch with any part of his or her body, to fondle in any manner the sexual or genital areas of any patron.
7. No masseur, masseuse, employee or operator shall perform, offer or agree to perform, any act which would require the touching of the patron's genital area.
8. All walls, ceilings, floors, pool, showers, bathtubs, steam rooms and all physical facilities shall be in good repair and maintained in a clean, sanitary and proper condition. Wet and dry heat rooms, steam or vapor rooms and cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bath tubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
9. Oils, creams, lotions or other preparations used in administering massages shall be kept clean, closed and in containers and in cabinets.
10. Eating in massage areas shall not be permitted. Animals, except seeing eye dogs, shall not be permitted in the massage work areas.
11. No masseur or masseuse shall administer massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the State of Illinois certified in writing that such person may be safely massaged prescribing the condition thereof.
12. Each masseur or masseuse shall wash his or her hands in hot running water, using proper soap or disinfectant before administering a massage to each person.

SECTION 13. INSPECTIONS. The police department, the health department, the Mayor or such person designated by either of them, shall from time to time, and at least twice a year, make an inspection of the massage establishment granted a permit under the provisions of this ordinance, for the purpose of determining that the provisions of this ordinance are complied with. Such inspection shall be made at any reasonable time in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection or such officer or representative to the premises or to hinder in any manner such officer from making any inspection or inquiry.

SECTION 14.. EMPLOYMENT OF PERSON UNDER AGE EIGHTEEN PROHIBITED.
It shall be unlawful for the owner, proprietor, manager or other person in charge of any massage establishment to employ any person who is not at least eighteen years of age.

SECTION 15. IDENTIFICATION CARD. The Mayor shall provide each masseur or masseuse granted a permit with an identification card and it shall contain a photograph of the masseur or masseuse and the full name of such individuals and the permit number of the masseur

or masseuse, and such identification shall be worn on the front of the outer garment at all times during the hours of operation of the establishment to which the massage permit was granted.

SECTION 16. TRANSFER OF PERMITS. No permit to operate a massage establishment issued pursuant to this ordinance shall be transferred except by written consent of the Mayor and approval of the health officer and information provided as in the original application. Except that upon the death or incapacity of the permittee, the massage establishment may continue in business for a reasonable period of time to allow for the orderly transfer of the permit. However, such operator must register with the Mayor as the person in charge of the massage establishment.

SECTION 17. DISPLAY OF PERMIT. Every permittee shall display a valid permit in a conspicuous place within the massage establishment so that the same can be readily seen by persons upon entering the premises.

SECTION 18. EMPLOYMENT OF MASSEURS AND MASSEUSES. It shall be the responsibility of the permittee of the massage establishment or the employer of the persons purporting to act as masseurs or masseuses to insure that each person so employed as a masseur or masseuse shall first have a valid license or permit issued pursuant to this ordinance. There shall be no "student" or apprentice masseurs or masseuses permitted to operate without a permit as herein required.

SECTION 19. TIME LIMIT FOR FILING APPLICATION FOR PERMIT. All persons who presently operate a massage establishment or who are employed as a masseur or masseuse must file for a permit within forty-five (45) days from the effective date of this ordinance. Applications for renewal of permits must be filed not more than 2 months nor less than one full month prior to be expiration of the existing permit.

SECTION 20. NONAPPLICABILITY OF THIS ORDINANCE. The provisions of this ordinance shall not apply to hospitals, nursing homes, sanitarium or persons holding unrevoked certificates to practice the healing arts under the laws of the State of Illinois, or to persons working under the supervision and direction of any such persons or of such establishments, nor to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State of Illinois.

SECTION 21. VIOLATION AND PENALTIES. Every person except those persons who are specifically exempted by this ordinance, whether acting as individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owners, employee or operator, or acting as a participant or worker in any way, who gives massages or conducts a massage establishment without first obtaining a permit and paying a license fee to do so to the Village of Bellevue, or who shall violate and of the provisions of this article shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine of not to exceed \$750. Each day that a violation of this ordinance continues shall be considered a separate offense.

SECTION 22. MAINTAINING PUBLIC NUISANCE. Any building used as a massage establishment in violation of this ordinance with the intentional, knowing, reckless or negligent permission of the owner thereof, or the agent of the owner managing the building, together with all fixtures and other property used in violation of this ordinance are hereby declared to be a public nuisance.

SECTION 23. SEVERABILITY. If any section, subsection, paragraph, sentence, clause or phrase in this ordinance, or any part thereof, if for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity of the effectiveness of the remaining portions of this ordinance.

SECTION 24. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and the due publication as provided for by law, and it is ordered that the same be immediately published in pamphlet form and made conveniently available for public consideration this date in such pamphlet form and as such the Village Clerk shall cause such publication in pamphlet form.

SECTION 25. PREVIOUS ORDINANCES. The provisions of Village Ordinance No. 254 are amended and restated by this Ordinance. To the extent inconsistent with this Ordinance, Ordinance No. 254 is hereby repealed.

Passed by the Village Board of the Village of Bellevue, Peoria County, Illinois, in regular public session assembled this 25 day of November, 1996.

AYES:	<u>5</u>
NAYS:	<u>0</u>
ABSENT:	<u>1</u>

VILLAGE OF BELLEVUE, ILLINOIS

By: _____
Larry H. Howard, President

Attest: _____
Carol S. Howard, Village Clerk

696-2363