MEMORANDUM

TO: Plan Commission

FROM: Jeff Ryckaert, Principal Planner and Dan Nakahara, Planner

DATE: January 3, 2020

RE: Public Hearing on the Request for a Special Use to Allow a Massage Establishment in Unit A3 in the Deerfield Park Plaza Shopping Center at 405 Lake Cook Road (Property Owner Mosaic Properties and Development and Business Asian Foot Spa)

Subject Property

The subject property is known as Deerfield Park Plaza Shopping Center. It is zoned C-2 Outlying Commercial District and is a commercial planned unit development.

Surrounding Land Use and Zoning

North: (across Lake Cook Road) C-2 Outlying Commercial District and I-2B Limited Industrial District, Kleinschmidt Building and 420 Building
South and East: C-2 Outlying Commercial District, Deerbrook Shopping Center
West: (across railroad tracks) P-1 Public Lands District and C-2 Outlying Commercial District - Metra commuter rail station, Home Depot, El Tradicional Restaurant, McAlister’s Deli Restaurant, and the former Peapod.

Proposed Plan

The petitioner is proposing to open a massage establishment known as Asian Foot Spa, located at 405 Lake Cook Road in Unit A3 in Deerfield Park Plaza. The proposed 2,000 square foot massage spa would offer reflexology and therapeutic massage.

The petitioner’s material indicates that the proposed massage establishment will offer reflexology, Swedish massage, deep tissue massage, combo massage, and Chinese Tuina massage. The petitioner is not proposing any changes to the exterior of the building but will be requesting a wall sign above the tenant space. The massage spa will employ five full time professional massage therapists. The petitioner’s materials indicate that there could be up to 10 customers (5 customers getting a massage and 5 customers waiting) in the spa at one time. The business is appointment based, but walk-ins are welcome. The petitioner is proposing to be open 7 days a week from 10:00AM-9:00PM.
Zoning Conformance

The petitioners are seeking a Special Use for a reflexology massage establishment at Deerfield Park Plaza, Suite A3. Attached are the Special Use standards.

Access

The existing vehicular access points to the Deerfield Park Plaza planned unit development will not change as a result of the proposed massage establishment. The main signalized access point is on Lake Cook Road and there are two access points to Deerbrook Deerbrook Shopping Center, one at the north end by Jewel and National City Bank for westbound traffic only, and one at the south end that has full cross-access between both properties.

Parking

There is no specific parking requirement for a massage establishment in the Zoning Ordinance. According to Article 8.02-E, 8. when required parking is not listed for a use in the Zoning Ordinance, parking shall be as recommended by the Plan Commission. The closest requirement in the zoning ordinance for this use is a beauty shop, which requires 1 parking space for each 150 square feet of gross floor area. A beauty shop is a similar type of use with clients going to the business establishment mostly for appointments where the client stays on the premises for a while. When the parking requirement for a beauty shop is used for the proposed massage establishment at 405 Lake Cook Road (which the Plan Commission believes was an appropriate requirement for the Reflexology massage spa at 671 Waukegan Road in the former Baskin Robbins space that was approved last year), a total of 14 parking spaces are required (2,000 s.f. / 150 s.f. = 13.33 = 14). If this space were retail, a total of 10 parking spaces would be required (2,000 s.f. / 200 s.f. = 10).

Parking for Deerfield Park Plaza is shared among all the users of the shopping center. A total of 544 (543.58) spaces are required for the various uses in the shopping center including the massage establishment.

- Proposed Asian Foot Spa (2,000 s.f.): 14 parking spaces required using the parking requirement of one (1) parking space for each 150 square feet.
- Goddard School (10,325 s.f.): 33 parking spaces required when using the parking requirement of one (1) parking space for each ten (10) students and one parking space for each teacher/employee.
- Retail Uses: 44,172 s.f./200 s.f. = 220.86 spaces.
- Deerfield Park District Sachs Rec Center: Requires 49.3 parking spaces (148/3 = 49.3).
Barking Lot Facility (15,814 s.f.): 24 spaces required when using the parking requirement of one (1) parking space per employee on the premises plus one (1) parking space for each ten (10) animals boarded.
PNC Bank: 3,475 s.f./200 s.f. = 17.37 spaces.
Office Uses: 19,667 s.f./250 s.f. = 78.66 spaces (includes 8,000 s.f. Secretary of State office use).
Jimmy Thai Restaurant: 3,800 s.f. = 63.33
Taco Vida Restaurant: 1,068 s.f. = 13.35 spaces.
Dunkin Donuts & Baskin Robbins Restaurant: 3,396 s.f. = 29.71 spaces.

Parking provided at Deerfield Park Plaza: After the proposed recent renovations at Deerfield Park Plaza for Goddard, a total of 668 parking spaces are provided.

**Parking and Traffic Study**

At the November 14, 2019 Plan Commission Prefiling Conference meeting for this petition, the petitioner requested a waiver of a parking and traffic study. The Plan Commission agreed to waive the parking and traffic study due to the low parking requirements for this use.

**Signage**

**Wall signs**

**Number:**

Permitted: For each use occupying a ground floor, one (1) sign facing a public street, public right-of-way, or parking area.

Proposed: One (1) wall sign is proposed over the tenant space facing the parking area.

**Area:**

Permitted: The Zoning Ordinance allows 8% of the area of the wall or 80 square feet for a front and rear wall whichever is greater.

Proposed: The size of the proposed wall sign (when a box is placed around all of the sign elements) is 37.5 square feet (12.5’ by 3’).

**Location:**

Permitted: Walls signs may be located on the outermost wall of the principal
building fronting a public street, public right-way, easement for access or parking area.

Proposed: The proposed wall sign is to be located on the west wall of the building over the tenant space as indicated in the petitioner’s materials.

Height:

Permitted: Wall signs may not project higher than the parapet line of the roof or more than 30 feet above curb level, whichever is lower.

Proposed: The petitioner's plans did not indicate the height of the wall sign but have acknowledged that they will conform to Village code and the shopping center's regulations.

**Approved Sign Criteria for Lake Cook Plaza**

The sign criteria for Lake Cook Plaza allow wall signs with one line of letters to be a maximum of 24 inches in height. If two lines are used, the total wall sign height shall not exceed 36 inches. The proposed wall sign meets these requirements. The proposed wall sign will be on a raceway requiring ownership and Village approval. A raceway is a mounting structure (usually a rectangular box) behind the wall sign to hold the electrical components of the sign. The approved sign criteria notes that tenant’s sign shall be directly fastened to the façade and raceway mounted signage will require written approval of ownership and approval of the Village.

**Pylon Signage on Lake Cook Road**

The petitioner has not indicated if they will have a sign panel on the pylon sign or if they will comply with Village requirements and the shopping center sign criteria for the pylon sign for Deerfield Park Plaza.

**Appearance Review Commission**

The Appearance Review Commission (ARC) will have to review and approve the exterior signage for the proposed massage spa at an upcoming meeting.

**Window Signage**

The applicant is planning to follow all of the Village’s regulations regarding window signage. They have been provided with the window sign regulations.
**Massage Licensing**

The Village requires a massage business license for all massage businesses in Deerfield. Attached is Ordinance O-18-09, which details the massage business license. The petitioner will have to contact the Village Managers office to let them know that they will be pursuing a Special Use for a massage business and will need a massage business license if zoning approval is granted.

**Prefiling Conference Minutes**

Attached are the November 14, 2019 Prefiling Conference minutes.
Commissioner Goldstone asked about the entrances of Planet Fitness and Dollar Tree relative to the signage. Mr. Devine pointed out the entrances and the proposed signage locations on the images shared.

Commissioner Bromberg asked Village staff if the Appearance Review Commission has reviewed this request. Mr. Ryckaert reported that the ARC has already reviewed and approved this request and they will work with the Petitioners on the final details.

Commissioner Jacoby asked what colors the Planet Fitness and Dollar Tree signs will be. Mr. Devine replied that he is not sure of the final colors and they will work with the ARC on this as certain colors are allowed per the PUD sign criteria. Commissioner Goldstone suggested they present a rendering with proposed signage including colors at the Public Hearing.

Commissioner Schulman asked Mr. Devine to point out the front entrances for Planet Fitness and Dollar Tree relative to their proposed signs. Mr. Devine pointed out that the Planet Fitness space is not completely over its wall sign (previously approved by the Village) and stated that the ARC was fine with the placement of the doors and the signs. He added that Dollar Tree has a standard layout and chose to have the door in this location to fit their layout.

Commissioner Schulman asked if the building height is also changing, or just the façade. Mr. Devine replied that the building height is changing but it will be in line with the current step down portion of the anchor façade and the roofline. The portion where the roofing shows will be eliminated and the concrete area for signage will be extended.

Mr. Devine next discussed their proposal to update the colors of the center. He displayed an image of the center today and shared that the paint color scheme was done to match Fresh Thyme and was approved with that store in 2014. He commented that they are not thrilled with this color scheme, but it was required by Fresh Thyme. They now wish to update the paint colors and removed red and green color scheme currently present. The current colors date the center and they believe updating it will unify the center, freshen up the look and make it more modern. They will use warm and muted grays to match the brick. Mr. Devine stated that this request will have no impact on the neighbors, and they believe it will fit in better with the surrounding centers.

Commissioner Bromberg commented that he is in favor of these requests.

Commissioner Jacoby confirmed that Brunch Café would have two signs, one facing west and one facing south.

Mr. Devine stated that they will take a deeper look at signage after the ARC’s comments and before the Public Hearing and will have updated renderings. He added that the ARC also requested that they remove the border around the main entry facade where the old Barnes and Noble sign was located to be consistent with the overall design of the center.

Mr. Ryckaert reported that the Public Hearing on this matter would take place on January 9, 2020.

(2) Prefiling Conference: Request for a Special Use to Allow a Massage Establishment in Unit A3 in the Deerfield Park Plaza Shopping Center at 405 Lake
Sherwin Blitzstein, owner of Deerfield Park Plaza, stated that he is joined by business owner of Asian Foot Spa, to request a Special Use for a massage establishment. He stated that the center is at 99% occupancy with this new tenant, although they will soon have another vacancy, as the Hadassah Resale Shop will be closing before the end of the year. He shared that there will be no design changes and that the parking area is ideal for the Asian Foot Spa use.

Grace Chang introduced Jim Chang, owner of Asian Foot Spa. Ms. Chang stated that she is a realtor and is here to help translate for Mr. Chang who is fully comfortable with his command of the English language. Mr. Change has been in the massage business for 15 years and currently operates two foot spa businesses, one in downtown Highland Park and one in Vernon Hills. He is seeking to open his third massage business in Deerfield. Their services are focused on full body massage and foot massage.

Chairman Berg asked how many customers and employees would be there at a time. Ms. Chang replied that they will hire five licensed massage therapists at this site, and they will have six private massage rooms. At their busiest times, they will have up to six customers. Ms. Chang stated that they would be open 10 A.M. to 9 P.M. seven days a week and their peak times will be 2 P.M. to 6 P.M.

Chairman Berg stated that the Village has window covering restrictions that the Petitioners will need to comply with if they need to cover any windows for privacy. Mr. Blitzstein responded that the Petitioners will comply with all regulations for signage and window coverings.

Commissioner Jacoby asked if the signage would resemble like their current stores in Vernon Hills. Ms. Chang replied that yes, it will be similar to the Vernon Hills sign. Mr. Blitzstein added that they would follow the center’s sign criteria.

Commissioner Schulman asked the Petitioners if their other two locations are also named Asian Foot Spa. Ms. Chang responded that the Highland Park location is also named Asian Foot Spa and the Vernon Hills location is named Foot Place. Commissioner Schulman commented that the name could be confusing as they offer full body massages in addition to foot massages and this might be something to consider.

Mr. Nakahara asked the Commission if they plan to complete a parking study. Commissioner Schulman commented that there are over 100 extra spaces for use in this center and this use will require minimal parking. Mr. Blitzstein stated that currently the Secretary of State has been using a lot of parking with the implementation of the Real ID travel requirement, but they do not expect this to last much longer. He added that the Secretary of State has been very helpful and hired security, opened four more customer stations in the space, starting taking appointments, and added service hours.

Commissioner Goldstone asked if they would like more information on parking. Commissioner Schulman commented that there are over 100 extra spaces for use in this center and this use will require minimal parking. Mr. Blitzstein stated that currently the Secretary of State has been using a lot of parking with the implementation of the Real ID travel requirement, but they do not expect this to last much longer. He added that the Secretary of State has been very helpful and hired security, opened four more customer stations in the space, starting taking appointments, and added service hours.

Commissioner Goldstone asked if they plan to complete a parking study. Mr. Blitzstein replied that they prefer not to complete a parking study as this is not a huge traffic generator and is in the center in the best location for available parking. Commissioner Goldstone commented that long term for the mall, they may need more information on parking with the new residential development behind it as well as Sachs Center parking. Mr. Nakahara stated that parking for the Sachs center is on the Deerbrook Mall property and that there is additional parking further
east behind Deerfield Park Plaza. Commissioner Bromberg asked how large the space is that Hadassah Resale Shop will vacate. Mr. Blitzstein replied that it is 7,500 square feet. Commissioner Bromberg suggested that a parking study be completed when they have a potential tenant for that Hadassah space.

Mr. Ryckaert reported that the Public Hearing on this matter would take place on January 9, 2020.

Prefiling Conference: Request for Approval of a Special Use for a Proposed Massage Establishment to be located in Suite 119 at 400 Lake Cook Road (business owner A Plus Massage and property owner Imperial Realty)

Julia Klairmont of Imperial Realty, representing the property owner and building ownership, stated that Imperial Realty has been leasing the building for the past five years and purchased the building earlier this year. They are looking forward to making building improvements and filling vacancies. They would like to update the interior and the exterior facade. Ms. Klairmont stated that the building is currently 47% occupied. The previous owner has remained a tenant in the building and had limited resources for improvements and investment in the property. She added that they are excited to start making updates to lease out more spaces.

Ms. Klairmont reported that A Plus Massage has leased out Suite 119 in the building and seeking a Special Use. She commented that there is many empty parking spaces at the site as many tenants are only there part-time. She added that ownership does not think that parking for his use will have a big impact. A Plus Massage owners Sharon Autman and Rose Wasson have been tenants at an Imperial Realty building in Mount Prospect and are seeking to expand their business and move to Deerfield.

Ms. Autman stated that they are excited to move to Deerfield and the great opportunity to expand their business. She stated that they are currently inside a closed building that does not allow for signage and it is hard for people to know they are there. They advertise in other ways, but they are excited to move and improve their visibility with signage.

Ms. Wasson stated that she is part owner of A Plus Massage as well as Business Development Director. She stated that they currently have eight massage therapists and will expand their staff when they move to Deerfield. At any given time, they typically do not have all eight therapists providing services. Ms. Wasson reported that they are open 9 A.M. to 9 P.M. Monday through Saturday and Sunday 10 A.M. to 7 P.M. Their peak hours are 4 P.M. to 8 P.M. or 9 P.M. She added that they might consider shortening their Sunday hours depending on the flow of the business. Ms. Wasson stated that they provide couples massages, therapeutic massage, hot stone massage, pregnancy massage, cupping, chair massage, and they go into local corporations and do chair massage. They are also in the process of being validated to provide care for veterans and accept referrals from Great Lakes Naval Base for therapeutic massage.

Ms. Klairmont shared that A Plus Massage wanted to stay with Imperial Realty as well as move to Deerfield to expand their business and visibility. With the Commission’s feedback, they would like to determine what they could add for exterior signage. Ms. Klairmont reported that State Farm is no longer operating, and this space is available. They are discussing adding the State Farm space to A Plus Massage’s lease, which would allow for a larger space as well as exterior signage. However, if they do not take the State Farm space, they would like to consider other creative ways to add exterior signage and are open to suggestions from the Plan Commission.
SPECIAL USE CRITERIA

Does it meet the standards for a Special Use? A Special Use shall be authorized only when the Plan Commission finds all of the following:

1. **Compatible with Existing Development**
   The nature and intensity of the activities involved and the size, placement and design of any structures proposed will be so planned that the Special Use will be compatible with the existing development and will not impede the normal and orderly development and improvement of surrounding property.

2. **Lot of Sufficient Size**
   The size of the lot will be sufficient for the use proposed.

3. **Traffic**
   The location of the Special Use within the Village will be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the Special Use.

4. **Parking and Access**
   Parking areas will be of adequate size for the particular use and properly located, and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.

5. **Effect on Neighborhood**
   In all respects the Special Use will not be significantly or materially detrimental to the health, safety and welfare of the public or injurious to the other property or improvements in the neighborhood, nor will it diminish or impair property values in the surrounding area.

6. **Adequate Facilities**
   That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.

7. **Adequate Buffering**
   Adequate fencing and/or screening shall be provided to ensure the enjoyment of surrounding properties, to provide for the public safety or to screen parking areas and other visually incompatible uses.

8. **If in C-1 Village Center District:** That the establishment of the Special Use will not be injurious to the character of the C-1 Village Center District as a retail center for the Village.
ORDINANCE NO. O-18-09

AN ORDINANCE AMENDING CHAPTER 7 ("BUSINESSES"), ARTICLE 14 ("MASSAGE ESTABLISHMENTS") TO REGULATE MASSAGE ESTABLISHMENTS

PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS, this _7th_ day of __May__, 2018.

Published in pamphlet form by authority of the President and Board of Trustees of the Village of Deerfield, Lake and Cook Counties, Illinois, this _7th_ day of __May__, 2018.
VILLAGE OF DEERFIELD  
LAKE AND COOK COUNTIES, ILLINOIS

ORDINANCE NO. O-18-09

AN ORDINANCE AMENDING CHAPTER 7 ("BUSINESSES"), ARTICLE 14 ("MASSAGE ESTABLISHMENTS") TO REGULATE MASSAGE ESTABLISHMENTS

WHEREAS, the Village of Deerfield is a home rule unit of local government under the provisions of Article VII, Section 6 of the Illinois Constitution that may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the regulation of massage establishments is a matter of growing importance affecting the public health, morals, and welfare of the residents of the Village of Deerfield including, but not limited to, the prevention of such establishments from being used for the purposes of prostitution and the spread of disease through unsanitary practices and facilities; and

WHEREAS, the corporate authorities of the Village of Deerfield have determined that the regulations provided herein are in the best interests of the public health, safety, morals and welfare of the Village of Deerfield;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION 1: The recitals to this Ordinance are incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION 2: Chapter 7 ("Businesses"), Article 14 ("Massage Establishments") of the Municipal Code of the Village of Deerfield shall be hereby repealed and amended as follows:
ARTICLE 14
Massage Establishments and Therapists

Sec. 7-78. Definitions.

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

(1) Employee means any person over eighteen (18) years of age, other than a masseur, who renders any service in connection with the operation of massage establishment and receives compensation from the owner or operator of the establishment or patrons, including but not limited to, agents or independent contractors.

(2) Massage or massage services means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with aid of any mechanical, electrical apparatus 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 commonly used in this practice.

(3) Massage establishment means the premises where any person, business, firm, partnership, association, corporation or limited liability company engages in or carries on, or permits to be engaged in or carried on, any massage services.

(4) Massage therapist means any person who is licensed by the Illinois Department of Financial and Professional Regulation and engages in the practice of massage.

(5) Patron means any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give other consideration for such service.

(6) Person means any individual, association, partnership, firm, trust, corporation or limited liability company.

Sec. 7-79. Massage Business License Required.

No person shall engage in or carry on the business of massage or otherwise provide a massage in return for compensation in the Village without first obtaining a massage business license issued by the Village pursuant to the provisions of this Article for each and every premise used for the business of conducting a massage business or otherwise providing massages for compensation by such person. The applicant for a massage business license must be at least eighteen (18) years of age. The license term shall expire on December 31 of the calendar year for which it is issued unless sooner revoked as provided in this Article. The renewal of a license shall follow the same provisions under this Article as the application, issuance and denial of a license.
Sec. 7-80. Application for Massage Business License.

(a) An application for a massage business license shall be filed with the Village Manager. The application shall be made upon a form provided by the Village 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, and shall set forth:

1. The type of ownership of the business, i.e., whether individual, partnership, corporation, or otherwise.

2. The name under which the business is to be conducted.

3. The location and description of the premises or place of business which is to be operated under such license.

(i) 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.

(ii) 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 the trust.

4. In the case of an individual, the full name, home address with zip code, social security number, date of birth, sex 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, home address with zip code, social security number, date of birth, sex and a physical description including height, weight, color of hair and eyes of all partners and any other persons entitled to share in the profits thereof.

6. In the case of a corporation, the object for which organized, the names, home addresses with zip codes, date of birth, social security number, sex and a physical description including height, weight, color of hair and eyes of all officers, directors, and all persons owning directly or beneficially more than ten percent (10%) of the stock of such corporation and the persons acting as managers or assistant managers or other persons principally in charge of the operation of the business.

7. The date of formation of the partnership, if a partnership, 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 complete list of the name and residence addresses of all masseurs and employees employed by the business and the name and residence addresses of all managers,
assistant managers or other persons principally in charge of the operation of the business.

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

10. Whether applicant ever made an application for a license under this Article, or a massage business license or similar license to a state or county, city, village or other unit of local government, and if so, where and when, and if such application was granted or denied, and if such application was denied, the reasons for the denial.

11. Whether a license was ever issued to the applicant under this Article or a massage business license or similar license was ever issued by any state or county, city, village or other unit of local government, and if so, where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.

12. Whether the applicant has ever been convicted of a violation of any of the provisions of this Article or any ordinance of any other Illinois municipality which regulates massage parlors or the providing of massages, or any Illinois statute regulating massage establishments.

13. Whether the applicant has ever been convicted of the commission of a felony under the laws of this State, or any other state, or under the laws of the United States.

(b) The applicant shall submit a complete set of fingerprints with the application. All such fingerprinting shall be done by the Village Police Department. Said 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 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 a license.

(d) The applicant shall submit such other information, documentation and identification as the Village Manager or Chief of Police shall deem necessary to determine the identity of the applicant or to process the application.

Sec. 7-81. Issuance and Denial of Massage Business License

(a) Upon receipt of a properly completed application for a massage business license, the Village Manager shall submit the completed application to the Chief of Police for evaluation. Upon receiving the application for a massage business license, the Chief of Police shall conduct an investigation into applicant's moral character and personal and criminal history.
(b) In the case of an application for a massage business license, the Village Manager shall cause the premises to be licensed to be inspected for the purpose of determining that the proposed operation complies with all applicable laws, including building, electrical, plumbing, health, housing, zoning, and fire codes of the Village, and any other regulations of the Village relating to the public health, safety and welfare.

(c) The Village Manager shall either issue a license, or notify the applicant in writing that the application has been denied. 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 Code which is applicable to the business and/or activities of the applicant. In addition, no license shall be issued to any applicant if:

1. The proposed operation does not comply with all applicable laws, including but not limited to, building, electrical, plumbing, health, housing, zoning and fire codes of the Village; or

2. The applicant, if an individual; or any of the officers, directors, any person owning directly or beneficially more than ten percent (10%) of the stock of the corporation, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager, assistant manager or any other person principally in charge of the operation of the business, has been:

(i) convicted of a felony under the laws of the State of Illinois or any other state, or under the Federal laws of the United States, within ten (10) years of the date of the application; or

(ii) convicted of a sex offense as defined in 720 ILCS 5/11, or any equivalent law of any state within ten (10) years of the date of the application; or

(iii) The applicant has been convicted of a violation of any provision of this Article; or

(iv) The applicant has had a massage business, masseur or similar license denied, suspended or revoked by the Village, by a state or by unit of local government within ten (10) years of the date of the application; or

(v) The applicant has been convicted of a violation of an ordinance of any other Illinois municipality regulating massage establishments or masseurs; or

(vi) The applicant has been convicted of any other criminal offense involving dishonesty, fraud, deceit or moral turpitude within ten (10) years of the date of the application; or

(vii) The applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the Village in conjunction with the license application; or
(viii) The applicant has been overdue on payment to the Village of fees, fines, or penalties assessed against the licensee or imposed upon the licensee in relation to the sale or use of pavement sealants.

(d) In the event that the license is denied for failure to comply with the requirements of this Article, the Village Manager shall immediately notify the applicant in writing of the reasons for the denial. If the failure is not cured within ten (10) days after the date on which the Village Manager denies the issuance of said license, the application shall be null and void.

Sec. 7-82. License Fee.

Except as otherwise provided by an annual fee resolution, an initial non-refundable application fee for a massage business license shall be One Hundred Dollars ($100.00), and the annual license and renewal fee shall be Thirty-Five Dollars ($35.00). All applicable license fees and any other required fees shall be paid prior to the issuance of any license.

Sec. 7-83. Sanitation and Safety Requirements.

All licensed premises shall be periodically inspected by the Village Building and Code Enforcement Supervisor or his duly authorized representative for safety of the structure and adequacy of plumbing, ventilation, heating, illumination and fire protection. In addition, the premises shall comply with the following regulations:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given;

(b) Floors shall be free from any accumulation of dust, dirt or refuse;

(c) All equipment used in the massage operation shall be maintained in a clean and sanitary condition;

(d) Soap, towels and laundered sheets must be provided and all such towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered;

(e) Towels, cloths and sheets shall not be used for more than one patron; provided, however, heavy white paper may be substituted for sheets provided that such paper is changed for every patron.

(f) All massage services or practices are prohibited in any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked.

(g) All massage therapists shall wear clean and suitable outer garments whose use are restricted to the massage establishment, and must wear on such outer garments, at all times during operation, identification name plates with the license numbers
provided by the Village.

(h) Separate toilets, dressing room facilities, lockers, steam baths, tubs and showers shall be provided for each sex.

Sec. 7-84. Conditions and Restrictions of License.

(a) Supervision. A massage establishment shall have the premises supervised at all times when open for business. A massage establishment shall have at least one (1) person who has a valid massage therapist license on the premises at all times while the establishment is open for business. The licensee shall personally supervise the business, and shall not violate, or permit others to violate, any applicable provisions of this Article. The violation of any provisions by any agent, employee or independent contractor of the licensee shall constitute a violation of the licensee.

(b) Separate License for Each Premise. Licenses apply only to the premises described in the application, and in the license issued thereon, and only one location shall be so described in each license.

(c) Transfer of License. A license shall be a purely personal privilege, effective for a period not to exceed one (1) year after issuance unless sooner revoked as provided in this Article, and shall not constitute property. No massage business license is transferable, separate or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.

(d) Display of License. The massage business license and all massage therapist licenses shall be displayed in an open and conspicuous place of the premises to be licensed.

(e) Books and Records. Every massage business licensee shall at all times keep an appointment book in which the name of each and every patron shall be entered, together with the time, date and place of service, and the service provided, as well as the name of the massage therapist who performed the service provided. Such books and records shall be available at all times for inspection by the Chief of Police or his authorized representative.

(f) Alcoholic Beverages, Marijuana, Opioids Prohibited. No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage, marijuana or opioids on the premises of any establishment.

(g) Hours of Operation. No massage establishment shall be open for business or in operation during the hours of 10 p.m. to 6 a.m.

(h) The Chief of Police, any duly authorized police officer or a building and code enforcement officer of the Village shall have the right to enter the premises for the purpose of inspecting the premises or operations therein.
(i) The licensee shall undertake all reasonable efforts to ensure compliance with the provisions of this Article, including but not limited to, cooperation with the Village’s enforcement of this Article and the implementation of robust managerial programs aimed at the prevention of prostitution.

Sec. 7-85. Prohibited Acts and Conditions.

(a) A patron's sexual or genital area, including the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female, must be covered by towels, cloths or undergarments when in the presence of a massage therapist or employee.

(b) It shall be unlawful for any person, intentionally, in a massage establishment, to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, the genital area of another person.

(c) No massage therapist or employee shall perform, offer or agree to perform any act which would require the touching of the patron's genital area.

(d) No massage therapist shall administer a 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 certifies in writing that such persons may be safely massaged prescribing the conditions thereof.

(e) No licensee, massage establishment, massage therapist, person, or employee of a massage establishment shall deny, impede, interfere with, prohibit or refuse to permit an inspection by a police officer or other employee of the Village.

(f) No person other than a massage therapist, as defined by Section 7-78(4) of this Code, shall administer or perform a massage at a massage establishment.

Sec. 7-86. Suspension or Revocation of License.

In addition to the provisions under Section 1-26 (“Suspension Or Revocation Of Licenses Or Permits; Refusal To Issue Licenses Or Permits”) of this Code, the Village Manager may deny, suspend, revoke, or refuse to issue or renew, a massage business license for any of the following reasons:

(a) Any violation by the licensee of any provision of this Article or other ordinance of the Village relating to the license, the subject of the license or to the premises occupied.

(b) Any violation by the licensee of any ordinance or law regulating massage establishments or massage therapists of any other jurisdiction.

(c) Any denial, suspension or revocation of a massage business license or similar
license issued to the licensee, the licensee's agent, or the massage establishment's owner, operator or employee by the Village or any other jurisdiction unit of local government.

(d) If a massage license is revoked for any cause, no massage business license shall be granted to any person for a period of one (1) year after the date of the revocation that will allow a massage business to be operated on the premises described in the revoked license.

(e) Except as otherwise provided by this Section, the provisions of Section 1-26 of this Code shall govern the issuance, denial, suspension or revocation of this license.

(f) The Village Manager shall have the discretion to deny, suspend or revoke a license for a single violation of this Article.

Sec. 7-87. Exemptions.

Except as otherwise provided herein, the provisions of this Article do not apply to persons holding a valid certificate or license to practice medicine, nursing, physical therapy, occupational therapy, athletic trainer, chiropractic, or other healing arts under the laws of the State of Illinois, or persons working under the direction of any such licensed persons, or any barber or cosmetologist lawfully carrying on their respective businesses to the extent authorized under a valid license or certificate of registration issued by the State of Illinois. This exemption is not intended for, and does not permit, general massage activities as part of any barber or cosmetologist business beyond that authorized by their State license or certification.

Sec. 7-88. Penalties.

Any person found guilty of violating any provisions of this Article shall be fined not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The license of any person found guilty of violating any provision of this Article may be denied, suspended or revoked.

SECTION 3: If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 4: This Ordinance, and each of its terms, shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should: (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law; or, (b) legislate in a
manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Deerfield that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law; provided, however, that the effective date will not occur prior to August 1, 2018.

PASSED this 7th day of May, 2018.

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED this 7th day of May, 2018.

[Signature]
Village President

ATTEST:

[Signature]
Village Clerk