

ORDINANCE NO. O-2022-26

AN ORDINANCE AMENDING SECTION 26-178 "DEFINITIONS" OF ARTICLE VII, "MASSAGE BUSINESSES" OF CHAPTER 26 "BUSINESSES" OF THE WHEATON CITY CODE

WHEREAS, Article VII of Chapter 26, of the Wheaton City Code controls massage businesses; and

WHEREAS, subsection (r) of Section 26-194 of the "Ordinance" establishes liability for any business holding massage therapy license for the illegal acts of "its employees"; and

WHEREAS, subsection (r) also requires that massage therapists be employees, and not independent contractors or sublessees of the massage business; and

WHEREAS, there was never any intent in the ordinance to relieve a massage business from being responsible for the illegal sexual acts of independent contractors who are illegally working on the premises; and

WHEREAS, the purpose of this ordinance is to establish that any person providing massage services in a massage therapy business, regardless of their tax status, is an "employee" for purposes of employer liability under the ordinance; and

WHEREAS, it is necessary to add a definition of "employee" to the "Definitions" Section 26-178 of the Massage Business Ordinance to clarify that a massage business is liable for the illegal acts of any person performing massage for a massage business.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule authority, that: Section 26-178, "Definitions", of Article VII, "Massage Businesses", of Chapter 26 "Businesses" the Wheaton City Code is hereby amended by the addition, in alphabetical order, of the word "employee" which shall read:

SECTION 1: "Employee" shall mean any person performing a massage at a massage business.

SECTION 2: In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

SECTION 4: That this ordinance shall be in full force and effect commencing 7th day of June 2022, and upon publication in accordance with the law.



Philip J. Stuver
Mayor

ATTEST:



Andrea Renedale

City Clerk

Ayes:

Roll Call Vote:

Councilwoman Bray-Parker
Councilman Brown
Mayor Suess
Councilwoman Robbins
Councilman Weller
Councilman Barbier

Nays:

None

Absent:

Councilwoman Fitch

Motion Carried Unanimously

Passed: June 6, 2022

Published: June 7, 2022