

State of New Jersey
Township of Lawrence

Ordinance No. 2155-13

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF LAWRENCE ENTITLED 'LICENSES' REQUIRING THE LICENSING OF MASSAGE AND/OR SOMATIC ESTABLISHMENTS

BE IT ORDAINED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that Ordinance 1947-07 entitled "AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF LAWRENCE ENTITLED 'LICENSES' REQUIRING THE LICENSING OF MASSAGE AND/OR SOMATIC THERAPISTS AND THEIR ESTABLISHMENTS" is hereby replaced by the following:

Section 1:

The Code of the Township of Lawrence is hereby amended by the addition of the following new Article which requires the licensing of massage and/or somatic establishments within Lawrence Township:

Article 2A

Massage and Somatic Therapy

Sec. 12-13(a) Declaration of Policy

- (a) It is hereby declared that the business of operating a massage business, as defined in this article, is a business affecting the public health, safety and general welfare

Section 12-13(b) Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MASSAGE, BODYWORK AND/OR SOMATIC THERAPIES shall mean any systems of activity of structured touch which include, but are not limited to, holding, applying pressure, stroking, kneading, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such applications may include, but are not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, movement and neuromyofacial education and education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

MASSAGE, BODYWORK AND SOMATIC THERAPIST shall mean any person licensed pursuant to the provisions of the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53.

MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENT shall mean any establishment wherein massage, bodywork and/or somatic therapies are administered or are permitted to be administered, when such therapies are administered for any form of consideration.

Section 12-13(c) Non-licensed Therapists Prohibited.

The administering of massage, bodywork and/or somatic therapies for any form of consideration by any person not licensed by the State of New Jersey pursuant to the Massage and Bodywork Therapist Licensing Act, P.L. 1999 c.19 amended 2007, c. 337. shall be prohibited throughout the Township of Lawrence.

Section 12-13(d) License Required

Establishment: No person, firm or corporation shall operate any establishment or utilize any premises in the Township of Lawrence as or for a massage, bodywork and somatic therapy establishment unless or until such person, firm or corporation has obtained a license for such establishment or premises from the Municipal Clerk in accordance with the terms and provisions of this chapter.

Section 12-13(e) Renewals

All licenses shall be valid for a period of three (3) years from the date of issuance.

Licensees may renew their licenses prior to expiration by filing a new application with the Municipal Clerk in the manner prescribed in this chapter and accompanied by the requisite fee.

All licenses issued pursuant to this chapter shall expire at the end of the respective calendar year. Renewal applications are due by November 1 of that year the license expires.

Section 12-13(f) Application for License.

Establishment: Any person desiring a massage, bodywork and somatic therapy establishment license shall file a written application with the Municipal Clerk upon a form provided by the Clerk. The application form shall contain the following information:

- A. The type of ownership of the business i.e., whether individual, partnership, corporation or otherwise.
- B. The name, style and designation under which the business is to be conducted.
- C. The business address and all telephone numbers, including facsimile, where business is to be conducted.
- D. A complete list of the names and residence addresses of all massage, bodywork and somatic therapists and employees of the business and the name and residence address of the manager or other person principally in charge of the operation of the business.

- E. A sworn statement indicating that all massage, bodywork and somatic therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment have been licensed by the State of New Jersey pursuant to the Massage and Bodywork Therapist Licensing Act, P.L. 1999 c.19 amended 2007, c. 337.**
- F. The following personal information concerning the applicant (s), if an individual; concerning each stockholder holding more than ten (10%) percent of the stock of the corporation, each officer and each director, if the applicant is a corporation; concerning the partners, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business shall be provided:**
- 1. The name, complete residence address and residence telephone number.**
 - 2. The two (2) previous addresses immediately prior to the present address of the applicant.**
 - 3. Written proof of age.**
 - 4. Height, weight, sex, color of hair and eyes.**
 - 5. Two (2) front-face portrait photographs taken within thirty (30) days of the date of the application and at least two by two (2 x 2) inches in size.**
 - 6. Provide any massage therapy or similar business history and experience, including, but not limited to, whether or not such person has previously operated in this or another municipality or state under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefore and the business activities or occupations subsequent to such action or denial, suspension or revocation.**
 - 7. All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof. The applicant shall execute a waiver and consent to allow a criminal background check by the Lawrence Township Police Division. Failure to execute such a waiver and consent shall result in a denial of a license.**
 - 8. The names and addresses of three (3) adult residents who will serve as character references. These references must be persons other than relatives and business associates.**
 - 9. The fingerprints of the applicant(s).**

- G. At the time the application is filed, a fee as established in Section 12-13 (t) Fees, shall be paid to the Township Clerk to cover the cost of processing the application and investigating the facts stated therein.

Section 12-13(g) Inspection Requirements

The Municipal Clerk, upon receiving an application for a massage, bodywork and somatic therapy establishment license, shall refer the application to the various municipal departments (Division of Code Enforcement, Zoning, Health, and Emergency Services) for review and conformance with applicable State and Township Codes for such an establishment.

No massage, bodywork and somatic therapy establishment shall be issued a license or be operated, established or maintained in the Township unless inspections by the appropriate municipal departments reveals that the establishment complies with the minimum requirements of the Uniform Construction Code and Health Codes for businesses operating in the Township of Lawrence. In addition, the establishment must comply with each of the following minimum requirements:

- A. All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall be constructed of material with surfaces which are smooth, non-absorbent, and which may be readily disinfected.
- B. A public restroom shall be available to clients and employees during all business hours.
- C. Water closets and lavatories shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code, N.J.A.C. 5:23
- D. If bathing, dressing and locker facilities are provided for the patrons and male and female patrons are served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.
- E. The premises shall have adequate equipment for disinfecting non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron
- F. Adequate hand washing facilities shall be conveniently located to each treatment area to maintain clean hands and arms of all employees before, after and during treatments.
- G. Hand sinks shall be provided with hot and cold water capable of delivering running water under pressure at a temperature of 90-110 degrees Fahrenheit.

Section 12-13(h) Investigating and Issuance of License

- A. When said application is properly filled out, signed by the applicant and has been filed with the Municipal Clerk with all accompanying information, the application shall be referred by the Clerk to the Township Police Division. The Chief of Police or his or her designee shall investigate the information available as to the applicant's business and good moral

character of the applicant as deemed necessary for the protections of the public health, welfare and safety.

- B. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory or that the issuance of a license to the applicant would present a danger to the public health, welfare or safety, the Chief of Police shall endorse on such application his disapproval and reasons for same and return the application to the Township Clerk, who shall notify the applicant that the application is disapproved.
- C. If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory and the issuance of the license to the applicant will present no danger to the public health, safety and welfare, the Chief of Police shall indicate his approval on the application and return the application to the Township Clerk, who shall execute and deliver to the applicant the license.

Section 12-13(I) Revocation of License.

1. Licenses issued under this chapter may be revoked by the Chief of Police, after notice and a hearing, for any of the following causes:

- A. Fraud, misrepresentation or false statement in the application for the license.
- B. Fraud, misrepresentation or false statement made in the course of carrying on the licensed business in the Township.
- C. If the Chief of Police, Health Officer or their designee is denied access to the premises for the purpose of conducting an inspection.
- D. Any violation of this chapter.
- E. Conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, and any crime involving dishonesty.
- F. Conducting the licensed business in the Township in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

Notice of the hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be given personally or mailed to the licensee at his/her last known address at least five (5) days prior to the date set for the hearing. (see section 12-13(r) Relicensing after Revocation)

Such license may, pending revocation proceedings, be suspended for not more than ten (10) days by the Chief of Police if, in his/her opinion, the conduct of the licensee is detrimental to the health, safety and general welfare of the Township of Lawrence.

The Chief of Police, or his or her designee, shall serve as hearing officer for any hearing pursuant to this subsection.

Section 12-13(j) Criteria for Immediate Closure

The Licenses issued under this chapter may be immediately suspended by the Chief of Police for the following reasons:

- i. **Massage, bodywork or somatic therapy is provided by unlicensed therapist.**
- ii. **Unsanitary or unsafe conditions which may adversely impact the health and/or safety of the public.**

Section 12-13(k) Display of License.

The massage, bodywork and somatic therapy establishment shall display its license as well as the New Jersey license of each and every massage, bodywork and somatic therapist employed in the establishment in an open and conspicuous place on the premises of the establishment.

Section 12-13(l) Operating Requirements.

Every massage, bodywork, and somatic therapy establishment shall comply with the following:

- A. **Every portion of the massage, bodywork, and somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. A broad spectrum anti-microbial disinfectant shall be used.**
- B. **Price rates for all services shall be prominently posted (brochures or price list) in the reception area in a location available to all prospective customers.**
- C. **All employees, including massage, bodywork, and somatic therapists, shall be clean and wear clean, nontransparent outer garments. Dressing rooms must be available on the premises. Doors to such dressing rooms shall open inward, be self-closing, and non-lockable.**
- D. **Hand-wash sink shall be used solely for the washing of hands, arms and other parts of the body.**
- E. **Hand-sinks shall be supplied with liquid soap and disposable hand towels at all times.**
- F. **Every area of the establishment shall be provided with lighting capable of providing a minimum of 50 foot candles of artificial light. Lighting may be dimmed during treatment sessions.**
- G. **Massage tables shall be maintained in good condition and free of rips or tears.**

- H. Toilet paper, covered trash, liquid hand soap and disposable paper towels or alternate means of hand drying shall be provided in restrooms.**
- I. All massage bodywork and somatic therapy establishments shall be provided with clean laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner.**
- J. Soiled linens and draping materials shall be either commercially laundered or washed on site in a clothes washing machine, in hot water with detergent and at least one cup of bleach or an antibacterial agent, and dried on the high heat setting in a clothes dryer.**
- K. Linens used in a licensed establishment may not be laundered in a private home.**
- L. Closed containers shall be provided for soiled linens.**
- M. The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage, bodywork or somatic therapist.**
- N. No massage, bodywork or somatic therapy shall be knowingly served on any patron infected with any fungus or other skin infection, nor shall service be performed on any patron exhibiting skin inflammation or eruptions unless a duly licensed physician has certified that person may be safely served.**
- O. It shall be unlawful for any person knowingly, in a massage, bodywork, and somatic therapy establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of any other person. No massage, bodywork and somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of the patron's sexual or genital area.**
- P. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat-rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors it shall be kept dry.**
- Q. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be kept in clean closed containers or cabinets.**
- R. Animals, except for Seeing Eye dogs, shall not be permitted in the massage work area.**
- S. Each massage, bodywork and somatic therapist shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage.**

Section 12-13(m) Inspections by Police Division or Health Department

The Chief of Police and Health Officer and/or their designees are authorized to conduct random inspections of massage, bodywork and somatic therapy establishments granted a permit under the provisions of this chapter for the purpose of determining whether the provisions of this chapter are being complied with. Such inspections shall be unannounced but shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee or employee of the licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

The operator shall permit access to all parts of the establishment and all pertinent records required for the inspection shall be made available to the health authority representative for review.

Section 12-13(n) Sleeping Quarters

No part of any quarters of any massage, bodywork and somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor may any person sleep in such massage, bodywork and somatic therapy establishment except for limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment or bath. This provision shall not preclude the location of massage, bodywork and somatic therapy establishment in separate quarters of a building housing a hotel or other separate businesses or clubs.

Section 12-13(o) Prohibited Acts.

- A. No owner or manager of a massage, bodywork and somatic therapy establishment shall tolerate in his or her establishment any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material; laws which relate to the commission of sodomy, adultery and proscribing fornication, nor shall any owner or manager tolerate in his or her establishment any activity or behavior which violates this chapter.
- B. Any conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes may devolve upon the owner or manager of such establishment, it being specifically declared that following such conviction of an employee, the owner or manager of the establishment may be prosecuted as an accessory to such violation and the licenses which have been issued may be automatically revoked.

Section 12-13(p) Exceptions.

The provisions of this chapter shall not apply to massage, bodywork or somatic therapies given:

- A. In the office of licensed physician, chiropractor or physical therapist; or

- B. By a regularly established medical center, hospital or sanitarium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or
- C. By any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
- D. By a licensed barber or cosmetologist/ hairstylist limited to the areas of the face, neck, scalp or upper part of the body as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.

Section 12-13(q) Violations and Penalties.

In addition to the revocation or suspension of the license granted under this chapter any person violating any provision of this chapter shall be subject to a fine in the amount no lower than \$500 and no more than \$2,000 as determined by the Municipal Court Judge.

Section 12-13(r) Relicensing after Revocation

- A. Any person whose license has been revoked under the provisions of Section 12-13(i) may apply to be relicensed upon filing of proof that all loss caused by the actor or omissions for which the license was revoked had been fully satisfied and that all conditions imposed by the decision of the revocation have been complied with.
- B. Payment of a registration fee as established in Section 12-13(t).

Section 12-13(s) Service of notices

Whenever notice is required or permitted to be given by this chapter, such notice may be effected by personal service upon the licensee if an individual or any general partner, if a partnership, or upon any corporate officer, if a corporation, or alternatively, to any of foregoing, by certified mail, return receipt requested, to the last address listed in the Township Clerk's office in conjunction with the license information. It shall be the duty of each licensee to keep the Township advised of any subsequent change of address. Upon failure of a licensee to comply with this requirement, any notice returned with the notation "unknown," "moved," or "not claimed" shall be deemed proper service of all notices required by this chapter.

Section 12-13(t) Fees

- A. Every applicant for a license to maintain, operate or conduct a massage, bodywork and somatic therapy establishment shall file an application with the Municipal Clerk upon a form provided by the Clerk and pay a fee of four hundred (\$400.00) dollars, which shall be nonrefundable, unless the applicant (i) voluntarily withdraws the application within five (5) days of filing, and (ii) can demonstrate that it has not operated the business for which the application is pending during said five (5) day period; in which event, one hundred fifty (\$150.00) dollars shall not be refundable.

B. Fingerprinting – An additional fee for the amount set by the State (and subject to change by the State) shall be submitted for processing of fingerprints.

Section 12-13(u) Repealer

In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance deemed severable there from and shall not be affected.

Section 12-13(v) Effective Date

This Ordinance shall become effective twenty (20) days after passage.

Adopted: May 7, 2013

RECORD OF VOTE

| COUNCIL | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|-----------------------|------------|------------|----------------|---------------|----------------|-------------|---------------|
| Mr. Brame | X | | | | | X | |
| Ms. Lewis | X | | | | | | |
| Dr. Maffei | X | | | | | | X |
| Mr. Powers | | | | X | | | |
| Mayor Kownacki | X | | | | | | |