

New

O.3.08

**ORDINANCE GOVERNING MASSAGE, BODY WORK AND
SOMATIC THERAPY BUSINESSES WITHIN THE TOWNSHIP OF
DEPTFORD**

Whereas the Township Council of the Township of Deptford finds that it is its duty to protect and preserve the health, safety and welfare of the citizens of the Township of Deptford and the patrons of massage, bodywork and somatic therapy businesses and,

Whereas, the Township Council desires to minimize and control any adverse utilization of the businesses afore stated and to protect the citizens to preserve the quality of life, protect and preserve property values, and the character of surrounding neighborhoods.

Now therefore, the following procedures are enacted governing the establishment and operation of Massage. Bodywork and Somatic Therapy Businesses

I. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this chapter, except where the context clearly indicated a different meaning:

A. MASSAGE, BODYWORK AND SOMATIC THERAPIES -- Any systems or activity of structured touch which includes, but are not limited to holding, applying pressure, 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 applications 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.

B. MASSAGE, BODYWORK AND SOMATIC THERAPIST -- Any person, male or female, who administers massage, bodywork or somatic therapies for any form of consideration.

C. MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENT -
- 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.

II. Permits required.

A. Massage, bodywork and somatic therapy establishment permit. No person, firm or corporation shall operate any establishment or utilize any premises in the Township of Deptford as or for a massage, bodywork and somatic therapy establishment unless or until there has been obtained a permit for such establishment or premises from the Township of Deptford in accordance with the terms and provisions of this chapter.

B. Massage, bodywork and somatic therapist's permit. No person shall practice massage or related therapies as a massage, bodywork or somatic therapist, employee or otherwise, unless he or she has a valid and subsisting massage, bodywork or somatic therapist, employee or otherwise, permit issued to him or her by the Township of Deptford pursuant to the terms and provisions of this chapter.

III. Application for establishment permit.

Any person requesting a massage, bodywork and somatic therapy establishment permit shall file a written application with the Community Development Department upon a form to be furnished by the Community Development Department. 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. The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than 10% of the stock of the corporation, each officer and 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:

- (1) The name, complete residence address and residence telephone number.
- (2) The two 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 front-face portrait photographs taken within 30 days of the date of the application and at least two inches by two inches in size.
- (6) The 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 of 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 conviction and circumstances thereof. The applicant shall execute a waiver and consent to allow a fingerprinting and criminal background check by the Township Police Department. In addition, the applicant shall pay a fee of \$25 plus any required state fees or costs to this Police Department for the cost of fingerprinting. Failure to execute such a waiver and consent shall result in the denial of a permit. An establishment permit shall be denied to any person who has been convicted of any crime or disorderly person offense, other than traffic violations.

(8) The name and addresses of three adult residents who will serve as character references. These references must be persons other than relatives and business associates.

IV. Establishment permit fee.

Every applicant for a permit to maintain, operate or conduct a massage, bodywork and somatic therapy establishment shall file an application with the Community Development Department upon a form to be furnished by said Department, and pay an annual fee of \$300, which permit fee shall become due on the fifteenth day of January each year.

V. Inspection of establishments; compliance with building, fire and health laws required.

The Community Development Department, upon receiving a complete application for a massage, bodywork and somatic therapy establishment permit, shall refer the application to the Gloucester County Board of Health, Building Department, Fire Department and Planning Department. Each department, including the Health Department, shall inspect the premises proposed to be operated as such an establishment and shall make written recommendations to the Community Development Director concerning compliance with the codes under their jurisdiction. No massage, bodywork, and somatic therapy establishment shall be issued a permit or be operated, established or maintained in the Township of Deptford unless an inspection by the County Health Officer, Building Inspector and Fire Inspector reveals that the establishment complies with the minimum requirements of the Building, Fire and Health Codes for businesses operating in the Township of Deptford.

VI. Application for therapist's permit.

A. To be eligible for a permit as a massage, bodywork and somatic therapist, an applicant shall submit satisfactory evidence of:

- (1) Successful completion of a minimum of 500 hours, in-class study in the field of massage, bodywork or somatic therapy; or
- (2) Successful completion of the written examination offered by the national Certification Board for Therapeutic Massage and Bodywork.

B. For up to one calendar year after the date of procedures are established by this chapter for applying or permit to conduct massage, bodywork or somatic therapy in the Township of Deptford, any person engaged in the full-time practice of massage bodywork or somatic therapy for two years preceding the enactment of this chapter, or any person engaged in the part-time practice of massage, bodywork or somatic therapy for five years preceding the enactment of this chapter, or any person who has successfully completed 1,000 hours in the practice of massage, bodywork or somatic therapy under the supervision of a certified therapist and with the completion of a minimum 200 hours of education or training in massage preceding the enactment of this chapter may acquire a permit to practice without satisfying the requirements in subsections 1 and 2 above. One year after the enactment of this Ordinance, any person wishing to be permitted as a massage, bodywork or somatic therapist in the Township of Deptford must fulfill the requirements of Subsection A(1) and (2) above.

C. The following information concerning the application will also be required:

- (1) The name, complete address and residence telephone number.
- (2) All previous addresses within the last five years prior to the present address of the applicant.
- (3) Written proof of age.
- (4) Height, weight, sex and color of hair and eyes.
- (5) Two front-face portrait photographs taken within 30 days of the date of the application and at least two inches by two inches in size.
- (6) The massage therapy or similar business history and experience, including but not limited to whether or not such a person has previously operated in this or another city or state under a license or permit denied, revoked or suspended and the reason thereof 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 fingerprint and criminal background check by the Deptford Township Police Department. The applicant shall pay a fee of \$25 plus all required state fees or costs to the Police Department for the cost of fingerprinting. Failure to execute such a waiver and consent shall result in the denial of a permit. A massage, bodywork and somatic therapist's permit shall be denied to any person who has been convicted of any crime or disorderly person offense, other than traffic violations.
- (8) The name and address of three adult residents who will serve as character references. These references must be persons other than relatives and business associates.

VII. Therapist permit fee.

The applicant for a massage, bodywork or somatic therapist's permit shall pay an annual permit fee of \$50, which permit fee shall become due on the fifteenth day of January each year.

VIII. Display of permit and therapists' certifications.

The massage, bodywork and somatic therapy establishment shall display its permit as well as the certification 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.

IX. Operating requirements.

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

- 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.
- B. Price rates for all services shall be prominently posted 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 and shall be self-closing.
- D. 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.

E. 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.

F. It shall be unlawful for any person knowingly, in a massage, bodywork or 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 or 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.

G. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities and surfaces 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 keep dry, clean and sanitary.

H. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be keep in clean closed containers or cabinets.

I. Animals, except for Seeing Eye dogs, shall not be permitted in the massage work area.

J. 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, bodywork or somatic therapy to a patron.

X. Inspections; investigations.

A. The County Department of Health, Fire Department and/or the Building Department shall, from time to time, at least twice a year, make an inspection of each massage, bodywork and somatic therapy establishment 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 made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

B. It shall be the obligation of the Deptford Township Police Department, through the Chief of Police, to make necessary assignments to investigate any violations of a criminal or quasi-criminal nature, including but not limited to public indecency as outlined in N.J.S.A. 2C:34-1 and N.J.S.A. 2C:34-2.

XI. Suspension or revocation of permit.

A. Permits issued under this chapter may be revoked by the Director of Community Development, after notice and a hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement in the application for the permit.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on the permitted business in the Township.
- (3) Any violation of this chapter.
- (4) Conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution or any crime involving dishonesty.

(5) Conducting the permitted business in the Township in an unlawful manner or in such manner as to endanger the health, safety or general welfare of the public.

B. Notice of the hearing for the revocation of a permit 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 permittee at his/her last known address at least five days prior to the date set for the hearing.

C. Such permit may, pending revocation proceedings, be suspended for not more than 10 days by the Director if, in his/her opinion, the conduct of the permittee is detrimental to the health, safety and general welfare of the Township of Deptford.

D. The Director shall serve as hearing officer for any hearing pursuant to this section.

XII. Exceptions.

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

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

B. By a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or

C. By a 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 area of the face, neck, scalp or upper part of the body as set forth in Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.

XIII. Violations and penalties.

In addition to the revocation or suspension of the permit granted under this chapter, any violations of any provision of this chapter shall, upon conviction hereof, be punished as provided in Chapter 1, General Provisions, and Article 1.5 in the discretion of the Court.

.....

TOWNSHIP OF DEPTFORD

PAUL MEDANY, MAYOR

ATTEST:

DINA L. ZAWADSKI, TOWNSHIP CLERK

CERTIFICATION

The foregoing Ordinance was introduced at a Regular Meeting of the Township Council of the Township of Deptford held on the 7th day of April, 2008 and will be considered for final passage and adoption at the next Regular Meeting which time any person interested therein will be given an opportunity to be heard. Said meeting to be held on the 5th day of May, 2008 at the Municipal Building, 1011 Cooper Street, Deptford, NJ 08096.

DINA L. ZAWADSKI, TOWNSHIP CLERK