

**Explanation:** This Ordinance repeals Chapter 205 of the Code of the Township of Hillsborough, titled "Massage Therapists", and replaces it with a new Chapter 205 with the same title providing for the licensing of massage therapists in the Township of Hillsborough.

## **ORDINANCE 2009-11**

### **AN ORDINANCE REPEALING CHAPTER 205 OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, TITLED "MASSAGE THERAPISTS", AND REPLACING IT WITH A NEW CHAPTER 205 WITH THE SAME TITLE PROVIDING FOR THE LICENSING OF MASSAGE THERAPISTS IN THE TOWNSHIP OF HILLSBOROUGH.**

**BE IT ORDAINED**, by the Township Committee of the Township of Hillsborough in the County of Somerset and State of New Jersey, as follows:

**Section 1.** Chapter 205 of the Code of the Township of Hillsborough, titled "Massage Therapists", is hereby repealed and replaced with a new Chapter 205 with the same title as follows:

#### **Chapter 205 Massage Therapists**

**§205-1 Preamble.** No person shall own a business for the purpose of providing a massage service, be engaged or employed as a massage practitioner or therapist for whom any form of compensation is charged or accepted without first having obtained a license from the Clerk of the Township of Hillsborough. The license is specific to a massage establishment and a massage practitioner employed at such establishment, and is independent of any certificate of occupancy or approval for the use of any premise as a massage establishment.

**§205-2. Definitions.** As used in this Chapter, the following terms shall have the meanings indicated:

Employee. Any person other than a massage practitioner or therapist who renders any service in connection with the operation of a massage business and receives compensation from the operator of the massage establishment or its patrons.

Licensee. The operator of a massage establishment or a massage practitioner or therapist.

Massage. Any method of pressure on or friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of the external soft parts of the body with the hands, feet or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oil, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

Massage establishment. Any establishment having a fixed place of business where any person, firm, association or corporation engages in, carries on or permits to be engaged in or carried on any of the activities mentioned in the definition of massage.

Massage practitioner or therapist. An individual who has taken courses in massage therapy and has received a diploma or certificate of completion in the area of massage therapy from an educational institution offering degrees and/or certifications in massage therapy and has been certified as a massage therapist by the National Certification Board for Therapeutic Massage and Bodywork, or by the New Jersey Division of Consumer Affairs; Board of Nursing, Massage, Bodywork, and Somatic Therapy Committee.

Patron. 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 therefore.

Person. Any individual, firm, association, corporation or combination of individuals of whatever form or character.

Sexual or genital area. Genitals, anus or perineum of any person or the breasts or vulva of a female.

**§205-3. Requirements for licensure of a massage establishment and/or practitioner.**

No license for a massage establishment and/or practitioner shall be issued if the

applicant is:

a) **License A: Owner/Practitioner**

1. Under 18 years of age.
2. Convicted of any sex-related offense.
3. Unable to submit proof of current certification by the National Certification Board for Therapeutic Massage and Bodywork, or by the New Jersey Division of Consumer Affairs; Board of Nursing, Massage, Bodywork, and Somatic Therapy Committee.
4. Unable to accurately and correctly complete a written application provided by the Township Clerk, which among other things requires the applicant to submit a current photograph and to submit to fingerprinting by the Police Department or approved vendor for purposes of a criminal background investigation.
5. Unable to pay a license fee of \$250.00 and the additional fee charged for State Police fingerprinting, with the fee made payable to New Jersey State Bureau of Investigation.
6. Unable to submit proof of business liability insurance.
7. Unable to submit proof that the building, zoning, health and fire code requirements are met and that satisfactory inspection certificates have been issued.

b) **License B: Owner only**

1. Under 18 years of age.
2. Convicted of any sex-related offense.
3. Employs any massage practitioner or therapist who is not currently certified by the National Certification Board for Therapeutic Massage and Bodywork, or by the New Jersey Division of Consumer Affairs; Board of Nursing, Massage, Bodywork, and Somatic Therapy Committee.

4. Unable to accurately and correctly complete a written application provided by the Township Clerk, which among other things requires the applicant to submit a current photograph and to submit to fingerprinting by the Police Department or approved vendor for purposes of a criminal background investigation.
5. Unable to pay a license fee of \$250.00 and the additional fee charged for State Police fingerprinting, with the fee made payable to New Jersey State Bureau of Investigation.
6. Unable to submit proof of business liability insurance.
7. Unable to submit proof that all building, zoning, health and fire code requirements are met and that satisfactory inspection certificates have been issued.

c) **License C: Practitioner only**

1. Under 18 years of age.
2. Convicted of any sex-related offense.
3. Unable to submit proof of current certification by the National Certification Board for Therapeutic Massage and Bodywork, or by the New Jersey Division of Consumer Affairs; Board of Nursing, Massage, Bodywork, and Somatic Therapy Committee.
4. Unable to accurately and correctly complete a written application provided by the Township Clerk, which among other things requires the applicant to submit a current photograph and to submit to fingerprinting by the Police Department or approved vendor for purposes of a criminal background investigation.
5. Unable to pay a license fee of \$100.00 and the additional fee charged for State Police fingerprinting, with the fee made payable to New Jersey State Bureau of Investigation.
6. Unable to submit proof of liability insurance unless the practitioner is already covered by the insurance contracted by the massage establishment.

**§205-4. Investigation.**

a) When the application is properly completed and signed by the applicant, the original, duplicate and applicable fees shall be filed with the Township Clerk. The Clerk shall refer the duplicate to the Chief of Police, who shall make or cause to be made an investigation of the applicant's criminal background.

1. Upon completion of the criminal background investigation, the Chief of Police shall endorse the application noting approval or disapproval, as well as supporting information, on the application and forward to the Township Clerk. Disapproval by the Chief of Police shall be based on information disclosed by the criminal background investigation that indicates the issuance of the license would not be in the best interest of the public.
2. Upon receipt, when necessary the Township Clerk shall forward the application to the applicable Township department to verify that all building, zoning, health and fire code requirements have been met.
3. If the Chief of Police approves the application and the Township Clerk has determined that the remaining requirements are satisfied, the Township Clerk shall cause said license to be issued.
4. Any personnel changes and/or additions to an establishment shall be referred to the Chief of Police by the Township Clerk for investigation.

**§205-5. Display of license.**

Every license shall be displayed in a conspicuous place within the massage establishment so that it may be readily seen by persons entering the premises.

**§205-6. Terms of license.**

Massage establishment. Every massage establishment license issued pursuant to this Chapter shall expire at the end of the calendar year or unless sooner suspended or revoked and shall be renewed upon compliance with the licensure requirements above, except that the renewal fee shall be \$100.00 annually. Licensees shall submit an application for renewal no later than October 31st of the year prior to that requested on

the application. Those failing to submit a renewal application timely shall be required to reapply as and be subject to the conditions and fees of an initial applicant.

Massage practitioner or therapist. Every massage practitioner or therapist license issued pursuant to this Chapter shall expire at the end of the calendar year or unless sooner suspended or revoked and may be renewed upon compliance with the licensure requirements above, except that the renewal fee shall be \$100.00 annually. Licensees shall submit an application for renewal no later than October 31st of the year prior to that requested on the application. Those failing to submit a renewal application timely shall be required to reapply as and be subject to the conditions and fees of an initial applicant.

**§205-7. Operating requirement.**

a) Price rates for all services shall be prominently posted in the reception area and in each massage room in a location available to all prospective customers. Such posting shall include a statement as follows: Pursuant to the Code of the Township of Hillsborough, the genital areas of all customers shall be covered at all times when in the presence of an employee. No employee or patron shall touch or fondle in any manner the sexual or genital area of any person. Any person or customer violating this Chapter shall be subject to prosecution under this Chapter and applicable law.

b) All employees, including persons performing a massage, shall wear non-transparent outer garments, covering the sexual and genital areas.

c) The sexual or genital area of patrons must be covered by towels or cloths or undergarments when in the presence of an employee, or massage therapist or practitioner.

d) Hours of operation will be limited to 9:00 a.m. to 10:00 p.m.

e) A readable sign shall be posted at the main entrance identifying the establishment as a massage establishment and that sign shall comply with all other Township requirements regarding signage.

**§205-8. Change of location.**

Once a license has been issued, any changes of the location of the premises shall require the approval of the Township Clerk, provided all other applicable requirements are met and a change of location fee of \$100.00 is paid.

**§205-9. Employees.**

It shall be the responsibility of the holder of the license for the massage establishment to ensure that all persons employed comply with this Chapter. All employee licenses will be prominently displayed with the establishment license.

**§205-10. Inspections.**

The Township Police Department, Board of Health and Code Officer may make inspections of any and all parts of the licensed establishment to ensure compliance with this Chapter.

**§205-11. Revocation of license.**

a) The conviction of any applicant or licensee of any criminal offense, quasi-criminal offense related to the licensee's business or any sex-related offense shall constitute forfeiture of its license, and said license shall be deemed revoked.

b) That the licensee is engaged in the practice of massage under false or assumed name, or is impersonating another practitioner.

c) That the licensee is found to knowingly or unknowingly employ, allow, or permit any unlicensed person to perform massage in the establishment.

d) The Township Clerk shall cause notice to the licensee at the licensee's most recent address on file, that the license has been revoked. Within ten (10) days of the delivery of said notice, the applicant may appeal to the Township Committee to reinstate the license. A hearing shall be held by the Township Committee. Once the ten (10) day appeal period has passed, or if upon appeal to the Township Committee the license revocation is upheld, the massage establishment or individual will be barred from providing service within the Township for a period of five (5) years.

**§205-12. License Renewal.**

a) The \$100.00 annual renewal fee and renewal application shall be submitted to the Township Clerk by October 31st of the current year.

b) From the date of original issuance, each licensee shall be subject to a

periodic criminal background investigation by the Police Department through the New Jersey State Bureau of Investigation using the Name Check method. The cost of the Name Check shall be paid by the licensee.

**§205-13. Violations and penalties.**

Any person who shall violate any of the provisions of this Chapter shall, upon conviction, be fined a minimum of \$500.00 and a maximum of \$2,000.00, and may be imprisoned for up to ninety (90) days in jail for each offense.

**§205-14. Exemptions.**

a) The requirements of this Chapter shall have no application and effect upon any physician, surgeon, chiropractor, osteopath, nurse, nurse practitioner, physician's assistant, or physical therapist duly licensed to practice such professions in this State.

b) Nor shall it apply to any school certified to teach massage by the New Jersey Department of Education.

**Section 2. Severability.**

If any section, paragraph, subdivision, clause or provision of this Chapter shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this Chapter shall be deemed valid and effective.

**Section 3. Effective Date.**

This Ordinance shall take effect as provided by law.

**ATTEST:**

**HILLSBOROUGH TOWNSHIP COMMITTEE**

**By:** \_\_\_\_\_  
**Kevin P. Davis, Clerk**

**By:** \_\_\_\_\_  
**Frank DelCore, Mayor**

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