

Explanation: This Ordinance amends Section 4-15 entitled "Massage and Bodywork Therapy Establishments" to amend the regulations and permit requirements for the operation of massage and bodywork therapy establishments.

**TOWNSHIP OF WARREN
ORDINANCE NO. 14-24**

**AN ORDINANCE AMENDING THE REVISED GENERAL
ORDINANCES OF THE TOWNSHIP OF WARREN, TO
AMEND SECTION 4-15 ENTITLED "MASSAGE AND
BODYWORK THERAPY ESTABLISHMENTS."**

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

1. Chapter IV entitled "Licensing - General" is hereby supplemented and amended by the addition and creation of new Section 4-15 to be entitled "Massage and Bodywork Therapy Establishments" to read as follows:

4-15 Massage and Bodywork Therapy Establishments.

4-15.1 Purpose. The purpose of this Section is to establish regulations and permit requirements for the operation of massage and bodywork therapy establishments in order to protect and preserve the health, safety and welfare of the citizens of the Township of Warren, and the patrons of such businesses, and to minimize and control adverse utilization of such establishments to preserve the quality of life, protect and preserve the character of the Township.

4-15.2 Definitions. For the purpose of this Section, the following terms, phrases and words shall have the meanings stated herein.

a. "Massage and Bodywork Therapies" shall mean the systems of activity of structured touch which include, 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 and bodywork principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, explaining and describing myofascial movement, self-care and stress management as it relates to massage and bodywork therapies. Massage and bodywork therapy practices are designed to affect the soft tissue of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment or disability.

b. "Massage and Bodywork Therapist" shall mean a person certified and/or licensed to practice massage and bodywork therapies.

c. "Massage and Bodywork Therapy Establishment" shall mean any establishment, business or operation wherein massage and bodywork therapies are administered or are permitted to be administered, which shall include the operation of an outcall massage and bodywork therapy service.

4-15.3 Permits Required.

a. *Massage and Bodywork Therapy Establishment Permit Required.* No person, firm, corporation, organization or other entity shall maintain, operate or conduct a massage and bodywork therapy establishment or utilize any premises in the Township of Warren as or for a massage and bodywork therapy establishment unless or until such person or entity first obtained a permit for such establishment or premises from the Township of Warren in accordance with the terms and provisions of this Section.

b. *Massage and Bodywork Therapist [Permit] Registration/Documentation Required.* No person shall practice massage or bodywork therapy, unless he/she has a valid and subsisting massage and bodywork therapist permit issued to him/her by [the township of Warren] the New Jersey Department of Community Affairs and evidence of same has been submitted to the Township of Warren in accordance with the terms and provisions of this Section.

4-15.4 Applications; Fees.

a. Every applicant for a massage and bodywork therapy establishment permit shall file an application with the [township clerk] Warren Township Health Department upon a form to be provided by said [clerk] Health Department and pay an annual fee of [one hundred (\$100.00) dollars] One Hundred Fifty (\$150.00) Dollars.

4-15.5 Application Requirements.

a. *Application for a Massage and Bodywork Therapy Establishment Permit.* Any person, firm, corporation, organization or other entity applying for a massage and bodywork therapy establishment permit shall submit the required application, which shall include the following information:

- (1) The type of ownership of the establishment (i.e., whether individual, partnership, corporation or otherwise).
- (2) The name, style and designation under which the establishment is to be conducted.
- (3) The address and all telephone numbers, including facsimile, where the establishment is to be maintained, operated, and conducted.
- (4) A complete list of the name(s) and address(es) of all massage and bodywork therapists, along with a copy of each's certificate and/or

license issued by the State of New Jersey issued to the applicant pursuant to N.J.S.A. 45:11-53, *et seq.*, and N.J.A.C. 13:37-16.1, *et seq.*, name(s) and address(es) of other employees at the establishment, and the name and residence address of the manager or other person principally in charge of the day-to-day operation of the establishment.

- (5) The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than ten (10%) percent of the stock of the corporation, each officer and director, if the applicant is a corporation; concerning each partner, including limited partners, if the applicant is a partnership; concerning the managing members, if the applicant is a limited liability company; and concerning the manager or other person principally in charge of the day-to-day operation of the establishment:
- (a.) The name, residence address and residence telephone number. It shall be an ongoing responsibility of the applicant to notify the Township, in writing, of any change in name, address or telephone number of the individuals identified.
 - (b) The two (2) previous addresses immediately prior to the present address of the individuals identified.
 - (c) Written proof of age.
 - (d) Height, weight, sex and color of hair and eyes.
 - (e) Two (2) front-faced portrait photographs of the individuals taken within thirty (30) days of the date of the application, and at least two (2") inches by two (2") inches in size.
 - (f) The establishment or similar business history and experience, including, but not limited to, whether or not such person has previously operated such an establishment, along with the location of such prior operations, whether or not such person has previously applied for a license or permit for such an establishment, and if same was denied, revoked or suspended, and the reasons therefore.
 - [(g.) All criminal convictions, if any, of the individuals, other than traffic violations, disclosing the jurisdiction in which convicted and the offense for which convicted, along with the circumstances thereof.
 - (h) The individuals shall execute a waiver and consent, to be attached to the application, to allow a fingerprint and criminal background check by the police department.]
- (6) The names and addresses of three (3) adult residents of the County of Somerset who will serve as character references for the applicant. These references must be persons other than relatives and business associates of the applicant.

b. [Application for] Registration/Documentation of a Massage and Bodywork Therapist [Permit]. Any person [applying for a massage and bodywork therapist permit] registering as a massage and bodywork therapist shall submit the following information.

- (1) The name, residence address and residence telephone number of the [applicant] therapist. It shall be an ongoing responsibility of the [applicant] therapist to notify the Township, in writing, of any change in name, address or telephone number.
- (2) A copy of a certificate and/or license issued by the State of New Jersey issued to the applicant pursuant to N.J.S.A. 45:11-53, *et seq.*, and N.J.A.C. 13:37-16.1, *et seq.*
- [(3) Written proof of age.
- (4) Height, weight, sex and color of hair and eyes.]
- [5](3) Two (2) front-faced portrait photographs of the individual taken within thirty (30) days of the date of the application , and at least two (2") inches by two (2") inches in size.
- [(6) The prior experience as a massage and bodywork therapist, including, but not limited to, whether or not such person has previously applied for a license or permit as a massage and bodywork therapist, and if same was denied, revoked or suspended, and the reasons therefore.
- (7) All criminal convictions of the applicant, if any, other than traffic violations, disclosing the jurisdiction in which convicted and the offense for which convicted, along with the circumstances thereof.
- (8) The applicant shall execute a waiver and consent, to be attached to the application, to allow a fingerprint and criminal background check by the Police Department.
- (9) The names and addresses of three (3) adult residents of the County of Somerset who will serve as character references for the applicant. These references must be persons other than relatives and business associates of the applicant.

c. Applicants for a massage and bodywork therapy establishment permit and/or a massage and bodywork therapist permit are required to appear before the Warren Township Board of Health prior to the issuance of said permit, so that the board of health may review all of the information submitted with the application in order to determine if the applicant qualifies for the issuance of said permit.]

4-15.6 Building Requirements; Inspections. Upon receipt of an application for a massage and bodywork therapy establishment, the [township clerk] Health Department shall refer the application to the Construction Code Office, the Fire Department, the Police Department, the Board of Health, and the Zoning Officer, which departments may inspect the premises where the proposed massage and bodywork therapy establishment is to be maintained, operated or conducted[, and make written recommendations to the Township Clerk concerning compliance with the codes that they administer, along with the provisions of this Section]. No massage and bodywork therapy establishment shall be issued a permit or be maintained, operated or conducted in the Township unless an [inspection] approval by the Health Official, Construction Official, and Fire Marshal [reveal] has been granted indicating that the establishment complies with the minimum requirements of the construction, building and health codes for businesses operating in the Township of Warren.

4-15.7 Display of Permits. The massage and bodywork therapy establishment shall display the permit issued by the Township, and the permit of each and every massage and bodywork therapist employed and/or conducting business at the establishment, in an open and conspicuous place within the premises of the establishment.

4-15.8 Operating Requirements.

a. Every portion of the massage and bodywork therapy establishment, including all appliances and apparatus, shall be kept clean and operated in a sanitary condition.

b. Price rates for all services shall be prominently displayed in the reception area in a location available to all prospective customers.

c. All employees, including massage and bodywork therapists, shall be clean and wear clean, nontransparent outer garments.

d. Dressing areas for employees and customers shall be available on the premises. Such dressing areas shall be shielded from public view and provide the individual utilizing same privacy from all other individuals. If the dressing area is also used as the therapy/massage room, then adequate procedures shall be in place to safeguard the privacy of the individual using same as a dressing area. In no case shall these dressing areas be locked when both a client and any employee are present.

e. All massage and bodywork therapy establishments shall provide clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner.

f. The sexual or genital area of customers must be covered by towels, cloths or undergarments when in the presence of an employee or massage and bodywork therapist.

g. It shall be unlawful for any person knowingly, in a massage and bodywork 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.

h. No massage and bodywork therapist, employee or manager shall perform, or offer to perform, any act which would require the touching of the customer's sexual or genital area.

i. 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, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the establishment 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.

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

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

l. Each massage and bodywork therapist shall wash his or her hands in hot running water, using antibacterial soap or disinfectant before administering massage or bodywork therapy to each customer.

m. No massage and bodywork therapy establishment shall permit any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not exclusive of laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material.

n. Hours of operation of any massage and bodywork therapy establishment shall not commence prior to 9:00 a.m., and shall not extend beyond 10:00 p.m.

4-15.9 Inspection of Establishment. The Health Official, Construction Official, and/or the Fire Marshal shall, from time to time, and at least once a year, make an inspection of each massage and bodywork therapy establishment within the Township for purposes of determining whether or not the provisions of this Section are being complied with. The Police Department shall also, from time to time, conduct inspections of each massage and bodywork therapy establishment to determine if there are any violations of this Section and/or violations of any other ordinance of the Township of Warren or the laws of the State of New Jersey on the premises. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any massage and bodywork therapy establishment to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

4-15.10 Sleeping Quarters. No part or portion of any massage and bodywork therapy establishment shall be used for or connected with any bedroom or sleeping quarters, nor shall any person sleep in such massage and bodywork therapy

establishment, except for limited periods incidental to and directly related to a massage and bodywork therapy treatment. This provision shall not preclude the location of a massage and bodywork therapy establishment in separate quarters of a building housing a hotel, motel or other separate business.

4-15.11 *Violations; Penalties; Suspension or Revocation of Permit.*

a. Unless otherwise provided law, any person violating the any of the provisions of this Section, shall, upon conviction thereof, and at the discretion of the municipal court, be punishable by the penalties set forth in Section 3-21 herein, along with the revocation of the applicable permit.

b. Any conviction of any employee of a massage and bodywork therapy establishment of a violation of any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not exclusive of laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material, shall devolve upon the owner and/or manager of such establishment, it being specifically declared by that, following such a conviction by an employee, the owner and/or manager shall be prosecuted as an accessory to such a violation

c. *Suspension/Revocation.*

(1) In addition to any of the penalties provided herein or proscribed by law, and notwithstanding the filing of a summons and/or criminal complaint in the municipal court or Superior Court, any violation of the following provisions, shall subject the massage and bodywork therapy establishment [and/or the massage and bodywork therapist] to the suspension or revocation of the applicable permit:

- (A) Fraud, misrepresentation or false statement made by the applicant in the application for the permit.
- (B) Fraud, misrepresentation or false statement made by the applicant in the course of carrying on the permitted business in the Township.
- (C) Any violation of the provisions of this Section.
- (D) A conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, or any crime involving dishonesty.
- (E) 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.

(2) Such suspension or revocation shall be upon notice issued by the Health Official, and hearing before the Warren Township Board of Health.

(3) Notice of the hearing for the suspension or revocation shall be 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 address set forth in the application.

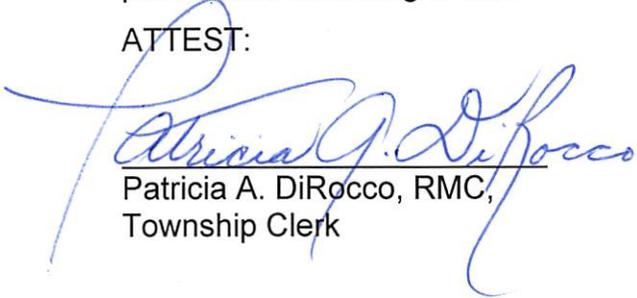
(4) Pending the hearing before the Board of Health, the said permit(s) may be suspended for a period of not more than ten (10) days by the Health Official if, in his/her discretion and opinion, the conduct of the permittee is detrimental to the health, safety and general welfare of the Township of Warren.

2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

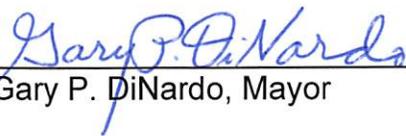
3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Warren, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Warren are hereby ratified and confirmed, except where inconsistent with the terms hereof.

4. This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:


Patricia A. DiRocco, RMC,
Township Clerk

TOWNSHIP COMMITTEE OF
THE TOWNSHIP OF WARREN

By: 
Gary P. DiNardo, Mayor

Note to Codifier: Deleted provisions indicated by brackets [].

New provision indicated in underline _____.

INTRODUCED September 18, 2014

ADOPTED October 9, 2014

EFFECTIVE October 16, 2014