

**TOWNSHIP OF MAPLEWOOD**



**ORDINANCE**

#2724-13

**AN ORDINANCE  
TO AMEND  
ORDINANCE #2360-06  
REGARDING  
THE REGULATION  
OF MASSAGE BUSINESSES**

*"Interpretive Statement"*

*This ordinance will ensure the health and safety of consumers of the Township of Maplewood.*

**BE IT ORDAINED**, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey that Ordinance # 2360-06#2360-06 be amended as follows:

**FIRST:** Purpose.

The purpose of this Ordinance is to insure the health and safety of consumers of massage within the Township of Maplewood (ATownship@).

**SECOND:** Definitions.

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this ordinance:

Agent B shall mean any and all persons, other than the massage practitioner(s) and employee(s), who are authorized to act for or in place of the permittee, massage practitioner(s), and/or employee(s).

Employees B shall mean any and all persons, other than the massage practitioner(s), who work for a massage business, who receive compensation directly from the permittee and who have no physical contact with the patrons.

Massage and Bodywork Therapies B shall have the same meaning as defined in N.J.S.A. 45:11-55.

Massage Business(es) B shall mean any of the following three types:

1. Establishment Type: located in a fixed place of business on a non-residential property owned, leased, operated or controlled by any person, firm, association or corporation which engages in or carries on or permits to be engaged in or carried on any of the massage activities defined in this ordinance. This includes any establishment engaged in or carrying on or permitting any combination of a massage and bathhouse establishment.

2. Home-Based Type: located in a fixed place of business on a residential property owned, leased, operated or controlled by any person, firm, association or corporation which engages in or carries on or permits to be engaged in or carried on any of the massage activities defined in this ordinance and in compliance with the Zoning Regulations regarding Home-Based Businesses.

3. Out-Call Type: located in premises not owned, leased, operated or controlled by any person, firm, association or corporation which engages in or carries on or permits to be engaged in or carried on any of the massage activities defined in this ordinance.

Massage and Bodywork Therapist B shall have the same meaning as defined in N.J.S.A. 45:11-55.

Massage Work Area B shall mean any room, floor, or section of a residential property in the case of a Home-Based Type of massage business, where massage, bodywork and/or somatic therapies as herein defined are carried out.

Patron B shall mean any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore.

Permittee B shall mean the operator of a massage business and/or a massage practitioner, who will receive money or any other consideration therefore, and who has a permit issued pursuant to this license.

**THIRD: Permits Required.**

No person shall engage in providing massage unless he or she has a valid massage practitioner license issued by the State of New Jersey.

No person, firm, association or corporation shall operate a massage business unless a valid massage business permit has been issued by the Township pursuant to the provisions of this ordinance.

**FOURTH: Application Fees.**

Every applicant for a massage business permit shall file annually a complete application with the Township Health Department (AHealth Department@), as set forth in paragraph FIFTH below, and pay an annual filing fee as follows:

The massage business permit fee shall be:

- A. 1. Establishment Type: one hundred (\$100.00) dollars per year.
- 2. Home-Based Type: one hundred (\$100.00) dollars per year.
- 3. Out-Call Type: fifty (\$50.00) dollars per year.
- B. All fees are nonrefundable. Fees are annual and not prorated.
- C. In addition to the above, each applicant must pay the required in subsection Fifth (b), below, to obtain a criminal background check.

**FIFTH: Application/Renewal for Massage Business Permit.**

Each massage business must be permitted.

Any applicant for a massage business permit shall file a written application with the Health Department on a form to be furnished by the Health Department. The applicant shall accompany the application with a tender of the correct fee set forth in subsection FOURTH, above, and shall, in addition, furnish the following:

- a. The applicant's name, complete address, residence and cell phone numbers.
- b. All previous addresses within the last five years prior to the present address of the applicant.
- c. Written proof of age.
- d. Height, weight, sex and color of hair and eyes.
- e. Three passport sized photographs taken within thirty days of the date of the application.
- f. Previous employment and business history, including whether or not the applicant has previously operated in this or another municipality or state under a license or permit, and whether or not any such license or permit was denied, revoked or suspended and the reason therefore, and the business activities or occupations subsequent to such action or denial, suspension or revocation.
- g. All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof.
- h. Upon initial application, a written waiver and consent to allow a fingerprint and criminal background check by the Maplewood Police Department. For this, a fee of \$78 shall be paid by the applicant.

i. The names and addresses of two adult residents of this state who will serve as character references. These references must be persons other than relatives and business associates.

j. A written declaration by the applicant under penalty of perjury that the foregoing information contained in the application is true and correct. Notwithstanding the foregoing, if the applicant holds a valid Massage Therapist License issued by the State of New Jersey, items: c, d, f, g, h and li shall be waived.

**SIXTH Building Requirements; Inspections.**

a. No massage business of the Establishment or Home-Based Type shall be issued a permit to be operated, established or maintained in the Township unless an inspection by the appropriate Departments produces the following:

1. A written report by the Building Department that construction of rooms used for toilets, tubs, steam baths, and showers is waterproof with approved waterproof materials and installed in accordance with the New Jersey Uniform Construction Code, and that the premises comply with all other appropriate building requirements.

2. A written report by the Health Department that:

a. All massage tables have surfaces which may be readily disinfected.

b. The premises have adequate equipment for sanitizing non-disposable instruments and materials used in administering massages. Such non-disposable

instruments and materials must be disinfected after use on each patron.

- c. Closed cabinets are provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials are kept in properly covered containers or cabinets, which containers or cabinets are kept separate from the clean storage area.
- d. Toilet facilities are provided in convenient locations.
- e. Lavatories or washbasins providing both hot and cold running water are installed in either the toilet room or a vestibule immediately adjacent thereto. Lavatories or washbasins are provided with soap and a dispenser and with sanitary towels.

- 3. A written report by the Fire Department that the premises meet Fire Code of the Township.

**SEVENTH: Referral of Applications**

The Health Department, upon receiving an application for a massage business permit of the Establishment or Home-Based Type, shall refer the application to the Township Construction Official (AConstruction Official@), the Township Fire Department (AFire Department@) and the Police Department, which Departments shall inspect the premises proposed to be operated as a massage business of the Establishment or Home-Based Type and shall make written recommendation to the Health Department concerning the laws and codes that they administer, as herein provided.

**EIGHTH: Issuance or Refusal to issue Massage Business Permit.**

The Health Department shall issue massage business permit within fourteen (14) days following receipt of a completed application and the certifications set forth in subsections FIFTH and SIXTH above, if all requirements described in this ordinance are met, unless the Department finds that:

- a. The correct permit fee has not been tendered to the Township and, in the case of a check or bank draft, honored with payment upon presentation.
- b. In the case of a massage business application, the operation as proposed by the applicant, if permitted, would not comply with all applicable laws, including but not limited to the Township building, zoning and health codes and regulations.
- c. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the Township in conjunction therewith.
- d. The applicant has had a massage business, massage practitioner=s or other similar permit or license denied, revoked or suspended for any of the above causes by the Township or any other State or local agency, which finding may be waived by the Township Committee in its discretion.
- e. The applicant, if an individual; any of the officers and directors or managing director, if the applicant is a corporation; any of the members or managing member, if the applicant is a limited liability company; any of the partners, including limited partners, or managing partner, if the applicant is a partnership; or the manager or other person principally in charge of the operation of the business; is not over the age of eighteen (18) years.

- f. The applicant(s), if an individual; any of the officers and directors or managing director, if the applicant is a corporation; any of the members or managing member, if the applicant is a limited liability company; any of the partners, including limited partners, or managing partner, if the applicant is a partnership; or the manager or other person principally in charge of the operation of the business has been convicted of an offense involving sexual misconduct with children, prostitution, soliciting for purpose of offenses opposed to decency and morality, or any crime of moral turpitude.

**NINTH: Operating Requirements.**

- a. In the case of Establishment Type or Home-Based Type massage businesses, price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers, or in the case of Out-Call Type massage businesses, given to the patron in the manner they can read.
- b. Massage practitioners and employees shall be clean and wear clean, nontransparent outer garments.
- c. In the case of Establishment Type or Home-Based Type of massage businesses, 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 that 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.

1. Oils, creams, lotions, stones and other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
  2. Eating in an Establishment Type massage business shall not be permitted except in a designated cafeteria/kitchen. Eating in a home-based type massage business shall not be permitted in the massage work area(s). Animals, except for Seeing Eye dogs, in an Establishment Type massage business shall not be permitted.
  3. Each massage practitioner shall wash his or her hands in hot running water, using a proper soap or disinfectant, before administering a massage to each patron.
- d. All massage practitioners and massage business shall maintain appropriate liability insurance coverage with a reputable company licensed by the State of New Jersey in an amount of not less than one million (\$1,000,000.00) dollars per occurrence and in the aggregate for all claims caused by personal injury. A certificate of insurance in acceptable form shall be provided to the Health Department within ten (10) days of the issuance of the permit set forth in subsection Fourth above. In the case of Establishment Type or Home-Based Type massage businesses, proof of appropriate liability insurance must be conspicuously posted.
- e. Out-Call Type business patrons shall be provided with a copy of the Township=s AProtect Your Health and Safety During a Massage@ flyer approved by the Health Officer after design by various massage practitioners.

- f. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises or to preclude authorized inspection thereof.

TENTH: Prohibited Activities.

The following activities are prohibited:

- a. Colonic irrigations;
- b. Prostate massages;
- c. Vaginal or penile massages;
- d. Rectal massages;
- e. Animal therapies prohibited by the Veterinary Medical Act, N.J.S.A. 45:16-1 et seq;
- f. Any application of electrical current to the body (Transcutaneous Electronic Nerve Stimulation, TENS machine);
- g. Ultrasound therapy; and
- h. Diagnosis of illness, disease, impairment or disability.

ELEVENTH: Revocation or Suspension of Permit

Any permit issued for massage business may be revoked or suspended by the Health Department after a hearing, for good cause, or in any case where an employee violates any of the State or local laws or ordinances. In the case of an Establishment Type or Home-Based Type massage businesses, any business permit may be revoked or suspended if any permittee, massage practitioner, or employee refuses to permit any duly authorized health inspector, police officer, building department inspector, or fire inspector to inspect the premises or the operations therein. Any massage business permit may also be revoked or suspended by the Health Department if such business is being managed,

conducted or maintained without regard for the public health or health of patrons, or without due regard for proper sanitation and hygiene.

A hearing may be requested by a permittee concerning a suspension or a revocation order within ten (10) days of its issuance. The Township Business Administrator (ABusiness Administrator@) shall be the hearing officer.

**TWELFTH: Register to be Kept.**

All massage business permittees must maintain a register of all persons employed as massage practitioners and their license numbers and all other employees and agents. Such register shall include the name, address, date of birth and social security number of all massage practitioners, employees and agents and shall be available for inspection at all times during regular business hours.

**THIRTEENTH: Responsibilities of Permittee.**

The permittee shall be responsible for all actions which occur on the premises of an Establishment Type massage business or in the work area(s) of Home Based Massage businesses, whether by massage practitioners, employees, subcontractors, or other agents, where the permittee has actual or constructive knowledge of such actions.

**FOURTEENTH: Display of Massage Business Permit.**

All massage businesses shall post their massage business permits in a conspicuous location at all times. In the case of Out-Call Type massage businesses, a copy of the permit shall be given to the patron in a manner they can read.

**FIFTEENTH: Appointment Book to Be Kept.**

Every massage business permittee shall, at all times, keep an appointment book in which the names of each and every patron shall be entered, together with the time, date and place of service and the service provided. Such appointment book shall be available for inspection pursuant to Court Order.

**SIXTEENTH: Inspections.**

The Health Department, the Police Department, Building Department, and Fire Department shall, from time to time, announced or unannounced, make an inspection of each Establishment or Home-Based Type massage business for the purpose of determining whether the provisions of this ordinance are complied with. Such inspections shall be made at reasonable times and in a reasonable manner and in compliance with Section Fifteenth of this Ordinance. It shall be unlawful and grounds for a suspension and/or revocation of the permit for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

**SEVENTEENTH: Minors Prohibited; Exception.**

No person shall permit any person under the age of eighteen (18) years to receive a massage without advance written permission from their parent, care giver or guardian, or unless a parent, care giver or guardian is present in the room during the time of the massage.

**EIGHTEENTH: Alcoholic Beverages Prohibited.**

No person shall sell, give, dispense, provide or keep or permit the sale or consumption of alcoholic beverages on the premises of an Establishment Type massage business, or within the work area(s) of the Home-Based Type massage business.

**NINETEENTH: Unlawful Acts.**

Any violation of this ordinance shall be deemed grounds for suspension and/or revocation of the permit granted hereunder.

**TWENTIETH: Permit Specifications Not to be Changed.**

No person granted a permit pursuant to this ordinance shall operate under any name or conduct his or her business under any designation for any location not specified in his or her permit.

TWENTY-FIRST: Transferability

Massage business permits are not transferable, separate or divisible, and such authority as a massage business permit confers shall be conferred only on the permittee named therein for the location of the Establishment or Home-Based Type massage business specified therein only.

TWENTY-SECOND: Exceptions.

The provision of this chapter do not apply to massage or physical therapy treatments given:

1. In the office of a licensed physician, chiropractor, or physical therapist.
2. In a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors, and/or physical therapists.
3. By any licensed physician, chiropractor or physical therapist in the residence of his or her patient.

TWENTY-THIRD: Violations and Penalties.

Any person or business violating any of the provisions of this ordinance shall, upon conviction, be liable for a fine:

First Offense: \$ 200.00

Second Offense: \$ 400.00

Any subsequent Offense Not in excess of \$ 2,000.00

or imprisonment for a period not exceeding ninety (90)

days, or both. Each and every day in which a violation

occurs shall constitute a separate offense.

TWENTY-FOURTH: Severability.

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed in full force and effect.

TWENTY-FIFTH: Repeal of Prior Ordinance.

Ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such inconsistencies.

TWENTY-SIXTH: Effective Date.

This ordinance shall take effect after final passage and publications according to law.

PUBLIC NOTICE is hereby given that the foregoing proposed Ordinance was introduced and read by title for the first time at a meeting of the Township Committee of the Township of Maplewood, held on June 18, 2013, and that Committee met again on July 2, 2013, at 7:30 p.m. at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Committee proceeded to consider the said Ordinance on second reading and final passage.

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ELIZABETH J. FRITZEN, R.M.C.  
Township Clerk