

TOWN OF MORRISTOWN

ORDINANCE O-6-09

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AN ORDINANCE DELETING CHAPTER 135, "MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS" OF THE CODE OF THE TOWN OF MORRISTOWN IN ITS ENTIRETY AND REPLACING SAME WITH A NEW CHAPTER 135, "MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS", OF THE CODE OF THE TOWN OF MORRISTOWN TO REVISE THE PERMITTING PROCESS, FEES AND TO GENERALLY RE-CODIFY THE CHAPTER

BE IT ORDAINED, by the Town Council of the Town of Morristown, County of Morris and State of New Jersey, being the governing body thereof, that Chapter 135, Massage, Bodywork And Somatic Therapy Establishments, be and is hereby deleted in its entirety and replaced with a new Chapter 135, Massage, Bodywork And Somatic Therapy Establishments to revise the permitting process, revise fees therefor and to generally re-codify the Chapter as follows:

CHAPTER 135

MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS

§135-1. Definitions.

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

MASSAGE, BODYWORK AND SOMATIC THERAPIES - shall mean any 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, 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 certified and/or licensed pursuant to the provisions of the Massage, Bodywork and Somatic Therapist Certification Act, P.L. 1999 c.19, as amended, N.J.S.A. 45:11-60 et seq.

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.

§135-2. Permits required.

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

B. Massage, bodywork and somatic therapist's license required. 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 and somatic therapist's license issued to him or her by the State of New Jersey pursuant to N.J.S.A. 45:11-60 et seq.

§135-3. Application for massage, bodywork and somatic therapy establishment permit; requirements.

Any person desiring a massage, bodywork and somatic therapy establishment permit shall file a written application with the Town Division of Health. 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. All therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment must comply with the Massage, Bodywork and Somatic Therapist Certification Act., P.L. 1999 c. 19, N.J.S.A. 45:11-60 et seq.

§135-4. Massage, bodywork and somatic therapy establishment permit fee.

Every applicant for a permit to maintain, operate or conduct a massage, bodywork and somatic therapy establishment shall submit an application with the Town Department of Human Services, Division of Health. Such application shall be furnished by the Town Department of Human Services, Division of Health and shall require an annual fee for such permit which shall become due on the first day of January each year, such fees to be based upon the square footage of the licensed establishment as follows:

<u>Massage, Bodywork and Somatic Therapy Establishment</u>	<u>Annual Permit Fee</u>
1 – 1,499 square feet	\$200.00
1,500 – 2,999 square feet	\$350.00
3,000 – 4,999 square feet	\$450.00
5,000 – 9,999 square feet	\$750.00
Over 10,000 square feet	\$1,000.00

§135-5. Building requirements; inspections.

Once the initial application process has been completed for the Division of Health permit, the Division of Health shall inspect the premises proposed to be operated as such an establishment. No massage, bodywork, and somatic therapy establishment shall be issued a permit or be operated, established or maintained in the Town of Morristown unless an inspection by the Health Officer, or designee reveals that the establishment complies with the minimum requirements of the health codes for businesses operating in the Town of Morristown. 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 have surfaces which may be readily disinfected, and shall be maintained in a sanitary condition and regularly cleaned and disinfected.

B. The Health Officer, in the exercise of his/her discretion, may require that adequate bathing, dressing and locker facilities shall be provided for the patrons to be served at any given time. In the event that male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided, if applicable.

C. The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.

D. Adequate hand washing facilities shall be provided at convenient locations other than the rest room facilities or lavatories as necessary to maintain clean hands and arms of all employees during hours of operation.

§135-6. Suspension or revocation of permit.

A. Permits issued under this Chapter may be revoked by the Health Officer or his or her designee, 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 Town;
- (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, and any crime involving dishonesty; or
- (5) Conducting the permitted business in the Town of Morristown in an unlawful manner or in such a manner as to constitute a menace to 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 (5) days' prior to the date set for the hearing.

C. Such permit may, pending revocation proceedings, be suspended for not more than ten (10) days by the Health Officer or his or her designee, if, in his/her opinion, the conduct of the permittee is detrimental to the health, safety and general welfare of the Town of Morristown.

D. The Health Officer shall serve as hearing officer for any hearing pursuant to this Chapter.

§135-7. Display of permit; licenses.

Any establishments regulated hereunder shall prominently display its permit to operate issued by the Town of Morristown pursuant to Section 135-4 hereinabove. All massage, bodywork and somatic therapists employed in such establishments shall each wear a badge displaying their State Certification/License and Title at all times.

§135-8. Regulations.

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.

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, non-transparent outer garments. Dressing rooms must be available on the premises at the Health Officer's discretion. Doors to such dressing rooms shall open inward and shall be self-closing. Such facilities must be accessible and separate from the lavatory sink.

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 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.

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 thoroughly cleaned after each use. When carpeting is used on the floors it shall be kept dry, clean and sanitary.

H. Oils, creams, lotions and other preparations used in administering massage, body work and somatic therapies shall be kept 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.

§135-9. Inspections.

The Division of Health shall, at least once a year, make an inspection of each massage, bodywork and somatic therapy establishment granted a permit under the provisions of this section for the purpose of determining whether the provisions of this section 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.

§135-10. 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 shall 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.

§135-11. 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 section.

B. Any conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes shall 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 shall be prosecuted as an accessory to such violation and the permits which have been issued shall be automatically revoked.

§135-12. Exceptions.

The provisions of this Chapter shall not apply to massage, bodywork or somatic therapies provided pursuant to the following:

- A. In the office of 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 any licensed physician, chiropractor or physical therapist in the residence of his or her patient.

§135-13. Violations and penalties.

In addition to the revocation or suspension of the permit granted under this section any person who violates any provision of this section shall, upon conviction hereof, be punished by a fine not exceeding Two Thousand Dollars (\$2,000.00) or by imprisonment for a term not exceeding ninety (90) days, or both, in the discretion of the court.

BE IT FURTHER ORDAINED, If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, This Ordinance shall take effect upon passage and publication in accordance with applicable law.

ATTEST:


MATTHEW K. STECHAUNER,
TOWN CLERK

ADOPTED:

 3/2/09
DONALD CRESITELLO
MAYOR

I do hereby certify the above to be a true and exact copy of an Ordinance duly passed and adopted by the Town Council of the Town of Morristown at the Regular meeting of the Town Council held on _____, 2009 in the Morristown Council Room, 200 South Street, Morristown, New Jersey, beginning at ____ P.M., prevailing time.

DATED: _____, 2009

Matthew Stechauner, Town Clerk