

**AN ORDINANCE AMENDING CHAPTER 5, SECTIONS 25.3, 25.4, 25.5, 25.15, 25.20,  
and 25.25 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF  
WEST ORANGE  
(MESSAGE BUSINESSES)**

**BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY** that Chapter 5 of the Revised General Ordinances of the Township of West Orange be and are hereby amended as follows:

**I. PURPOSE**

The purpose of this ordinance is to revise the scope of the provisions governing the operation of a massage establishment in compliance with N.J.S.A. 45:11-78 which provides that the state statute governing licensing, certification or registration of massage and bodywork therapists supersedes any local or municipal ordinance. Specifically, while the statute does not govern massage businesses or establishments, it does govern individual therapists. Therefore, the Township cannot govern or establish requirements for individual licensed massage therapists but can govern licensure of massage businesses and establishments. This ordinance clarifies that the licensing requirements adopted by the Township relate the businesses and establishments rather than individual licensed massage therapists.

**II. CHAPTER 5, SECTION 25.3 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-25.3 Permits Required.**

- a. *Business Permit Required.* No Massage establishment shall engage in or carry on the business of massage unless it has a valid massage establishment permit issued by the Township of West Orange pursuant to the provisions of this section for each and every separate office or place of business.

**III. CHAPTER 5, SECTION 25.4 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-25.4 Application Fees.**

Every applicant for a permit to maintain, operate or conduct a massage establishment including out-call massage services shall file a complete application with the Township Health Department upon a form provided by said Township Health Department and pay an annual filing fee as follows:

- a. For one (1) massage practitioner the fee shall be two hundred fifty (\$250.00) dollars per year.
- b. For each additional massage practitioner, the fee shall be one hundred (\$100.00) dollars per year.
- c. All fees are nonrefundable.

- d. To the extent an applicant has fully complied with the Home Occupation Ordinance as provided in subsection 25-9.9 and paid the registration fee, the amount of this permit fee shall be reduced by the same amount.
- e. If at any time after the initial permit is granted additional massage practitioners begin providing services at the massage establishment, all of the information required herein must be submitted to the Health Department within ten (10) days and the additional fee paid with proof that the additional massage practitioner is duly licensed by the New Jersey Board of Massage and Bodywork Therapy pursuant to N.J.S.A. 45:11-73.

**IV. CHAPTER 5, SECTION 25.5 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-25.5 Application for Massage Establishment Permit.**

Any Massage establishment desiring a massage establishment permit shall file a written application with the Township Health Department on a form to be furnished by the Township Health Department. The applicant shall accompany the application with a tender of the correct fee set forth in subsection 5-25.4 above and shall in addition, furnish the following:

- a. The type of ownership of the business, i.e., whether individual, partnership, corporation, limited liability corporation, or otherwise.
- b. The name, style and designation under which the business or practice is to be conducted.
- c. The business address and all telephone numbers where the business is to be conducted.
- d. A complete list of the names, residence addresses and emergency telephone numbers of all massage practitioners and employees in the business and the name, residence addresses and emergency telephone numbers of the manager or other person principally in charge of the operation of the business.
- e. Proof that all massage practitioners at the Massage establishment are duly licensed by the New Jersey Board of Massage and Bodywork Therapy pursuant to N.J.S.A. 45:11-73.
- f. The following personal information concerning the applicant, if an individual; concerning each stock-holder holding more than ten (10%) percent of the stock of the corporation, each officer and each director or managing agent, if the applicant is a corporation; concerning the partners, including limited partners, if the applicant is a partnership; the manager or other person principally in charge of the operation of the business:
  - 1. The name, complete residence address and residence/emergency telephone number.
  - 2. The two (2) previous addresses immediately prior to the present address of the applicant.
  - 3. Written proof of age.
  - 4. Height, weight, color of hair and eyes and sex.
  - 5. Two (2) front-face portrait photographs taken within thirty (30) days of the date of the application and two by two (2 x 2) inches in size.
  - 6. The massage or similar business history and experience, including but not limited to whether or not the individual providing the personal information pursuant to this provision has previously operated in this or another town or state under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefor and the business activities or occupations subsequent to such action for 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.
8. A diploma, certificate or other written proof of graduation from a recognized school by the person who shall be directly responsible for the operation and management of the massage business.
9. Such other information, identification and physical examination of the person deemed necessary by the Township Health Department in order to discover the truth of the matters hereinbefore required to be set forth in the application.
10. Authorization for the Township and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
11. The names and addresses of three (3) adult residents of the County who will serve as character references. These references must be persons other than relatives and business associates.
12. A written declaration by the individual providing the personal information pursuant to this provision, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Township.

**V. CHAPTER 5, SECTION 25.15 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-25.15 Appointment Book to Be Kept.**

Every Massage establishment which operates a massage business or practices or provides a massage shall, at all times, keep an appointment book in which the name 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 at all times for inspection by the Health Department's authorized representatives.

**VI. CHAPTER 5, SECTION 25.20 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-25.20 Permit Specifications Not to Be Changed.**

No Massage establishment granted a permit pursuant to this section shall operate under any name or conduct its business under any designation for any location not specified in its permit.

**VII. CHAPTER 5, SECTION 25.25 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-25.25 Violations and Penalties.**

Any Massage establishment or person violating any of the provisions of this section shall, upon conviction, be liable to a penalty as stated in Chapter I, Section 1-5 et seq.

**VIII. REPEAL OF CONFLICTING ORDINANCES**

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**IX. SEVERABILITY**

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

**X. EFFECTIVE DATE**

This Ordinance shall take effect upon final passage and publication in accordance with the law.

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**Karen J. Carnevale, R.M.C., Municipal Clerk**

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**Robert D. Parisi, Mayor**

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**Jerry Guarino, Council President**

**Introduced: May 14, 2019**

**Adopted: May 29, 2019**

**Legislative History**

The purpose of this ordinance is to revise the scope of the provisions governing the operation of a massage establishment in compliance with N.J.S.A. 45:11-78 which provides that the state statute governing licensing, certification or registration of massage and bodywork therapists supersedes any local or municipal ordinance. Specifically, while the statute does not govern massage businesses or establishments, it does govern individual therapists. Therefore, the Township cannot govern or establish requirements for individual licensed massage therapists but can govern licensure of massage businesses and establishments. This ordinance clarifies that the licensing requirements adopted by the Township relate the businesses and establishments rather than individual licensed massage therapists.