

TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 13-87

AN ORDINANCE REGULATING AND LICENSING THE
OPERATION OF THE PRACTICE OF HUMAN BODY MASSAGE
IN MIDDLESEX TOWNSHIP, CUMBERLAND COUNTY, AND
PROVIDING PENALTIES AND REMEDIES FOR VIOLATION
OF THE PROVISIONS OF THIS ORDINANCE

BE IT ENACTED AND ORDAINED and it is hereby enacted and
ordained under the authority of The Second Class Township Code,
Act of May 1, 1933, P.L. 103, as amended, (53 P.S. 65101 et
seq.) by the Board of Township Supervisors in and for the
Township of Middlesex, Cumberland County, Pennsylvania, as
follows:

SECTION 1. PREFACE: POLICY AND INTENTION.

The people and citizens of the Township of Middlesex
acting by and through their duly elected governing body, this
Board of Township Supervisors, are aware that the practice of
body massage under certain circumstances can scientifically
promote physical well-being by (1) relieving and relaxing muscle
tension, (2) stimulating vascular circulation which enhances the
disposition of waste products generated by muscular exercise,
and (3) assisting in the development of muscle tone through a
form of passive exercise. It is further recognized that the
physical contact involved in such practice can provide a source
of communication of disease for which the health and safety of
the community requires local governmental control and
supervision. This Board further recognizes that various

businesses operating under the guise of practicing body massage, sometimes called "massage parlors" are intended to stimulate sexual and erotic reactions which this Board believes is contrary to the morals and welfare of this Township. In addition to regulating the legitimate and bona fide practice of massage, this Board of Township Supervisors intends to prohibit and prevent the abuse of said practice for sexual or erotic stimulation and purposes.

SECTION 2. DEFINITIONS:

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

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

B. "Massage Establishment". Any establishment having a fixed place of business where any person, partnership, corporation or association, engages in, carries on, or permits to be engaged in or carried on, the practice of massage as is defined above, but shall exclude licensed hospitals, licensed nursing homes, medical clinics and the offices and quarters of licensed health profession practitioners.

C. "Massage Technician". Any masseur (male) or masseuse (female) who engages in the practice of massage for any consideration whatsoever, but shall exclude persons licensed by the Commonwealth of Pennsylvania to practice healing arts (i.e. medicine, osteopathy, podiatry, physical therapy, nursing, chiropractic) and barbers, beauticians and manicurists insofar as they deal with the head, hands and feet.

D. "Person". Any individual, or any firm, partnership, corporation or other association of individuals or group acting as a unit.

E. "Sexual or genital area". Shall include: the genitals, organs, pubic area, anus or perineum of any person; the penis or scrotum of any male person; the vulva, vaginal cavity or breasts of any female person.

SECTION 3. MASSAGE TECHNICIAN LICENSE REQUIRED.

It shall be unlawful for any person to engage in, conduct or carry on the practice of massage in the Township of Middlesex without first having obtained a Massage Technician License from the Township Secretary.

SECTION 4. MASSAGE ESTABLISHMENT LICENSE REQUIRED.

It shall be unlawful for any person to maintain, operate or conduct a massage establishment in the Township of Middlesex without first having obtained a Massage Establishment License from the Township Secretary.

SECTION 5. APPLICATION FOR MASSAGE TECHNICIAN LICENSE.

A. Each person seeking a Massage Technician License shall submit to the Township Secretary a written application

containing the following:

- (1) Name and residence address of applicant.
- (2) Applicant's Social Security Number and motor vehicle operator's license number, if any.
- (3) Applicant's weight, height, color of hair and color of eyes.
- (4) Written evidence that the applicant is at least eighteen (18) years of age.
- (5) A statement of applicant's each place and type of employment for three (3) years immediately preceding the date of application, indicating precise dates and addresses.
- (6) A statement of applicant's each place of residence for three (3) years immediately preceding the date of the application, indicating precise dates and addresses.
- (7) Applicant's statement of conviction of any crime or forfeiture of bond or bail involving any criminal charge or violation of ordinance (except minor traffic violations) within five (5) years immediately preceding the date of the application, indicating the precise charge, location, date and disposition.

(8) A photograph taken by the Middlesex Township Police Department.

(9) Fingerprints taken by the Middlesex Township Police Department.

(10) A licensed physician's certificate obtained within not more than thirty (30) days immediately preceding the date of the application from a physician acceptable to the Township Secretary certifying that the applicant is free from any contagious or communicable diseases and that the physician based his conclusions, in part, upon a recognized test for acquired immunity deficiency syndrome (AIDS), a recognized test for syphilis, a culture for gonorrhea, and a specific test or tests for tuberculosis.

(11) The application shall be made under oath before a notary public or other officer of the Commonwealth of Pennsylvania authorized to administer oaths.

B. Each applicant shall pay to the Township of Middlesex at the time of submitting the application a non-refundable filing fee of Fifty (\$50.00) Dollars for an original application and a non-refundable filing fee of Twenty-five (\$25.00) Dollars for each renewal application.

C. A License issued hereunder shall have a life or term of one (1) year from the date of issue. An application for renewal of said License for one (1) year may be filed at any time prior to the expiration of the then existing license.

SECTION 6. ISSUANCE OF MASSAGE TECHNICIAN LICENSE.

Within thirty (30) days after receiving a complete application for a Massage Technician license, the Township Secretary may issue said License to the applicant unless the said Secretary determines that the applicant (a) is under the age of eighteen (18) years, or (b) has been convicted of or has forfeited bond or bail on a charge of violating a criminal law or ordinance within five (5) years immediately preceding the filing of the application involving sexual misconduct, dishonesty, fraud or deceit, or (c) is not free from a contagious or communicable disease.

SECTION 7. SUSPENSION AND REVOCATION OF MASSAGE TECHNICIAN LICENSE.

A. A Massage Technician License may be suspended or revoked by the Township Secretary upon the occurrence of any of the following events:

(1) The application for such License contained false statement or statements.

(2) The Massage Technician has violated the provisions of this Ordinance.

(3) The Massage Technician contracts a contagious or communicable disease.

(4) The Massage Technician is convicted of or has forfeited bond or bail on a charge of violating a criminal law or ordinance in this or any other jurisdiction involving sexual misconduct, dishonesty, fraud or deceit.

B. The Township Secretary shall serve the Massage Technician with written notice of said suspension or revocation, specifying the reasons therefor, before said suspension or revocation shall become effective. Service of said notice shall be deemed effective if delivered to the person in apparent charge of the Massage Establishment.

C. The Massage Technician shall have the right to a hearing on said suspension or revocation, which hearing shall be held before the Township Secretary within ten (10) days after the service of the notice of such suspension or revocation, whether or not the suspension or revocation was effective immediately.

SECTION 8. APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE.

A. Each person seeking a Massage Establishment License shall submit to the Township Secretary a written application containing the following:

(1) A detailed statement indicating the exact nature of the massage to be administered, the proposed location of the establishment and the detailed plans therefor.

(2) Specific information on each individual, partner, limited partner, corporate officer, corporate director, corporate stockholder owning more than three per centum (3%) of the issued and outstanding stock of a corporate applicant, comprising the application, to include the following:

- (a) Name and residence address.
- (b) Social Security number and motor vehicle operator's license number, if any.
- (c) Height, weight, color of eyes and color of hair.
- (d) A statement of each place and type of employment for three (3) years immediately preceding the date of application, indicating precise dates and addresses.
- (e) A statement of each place of residence for three (3) years immediately preceding the date of application, indicating precise dates and addresses.
- (f) A statement of conviction of any crime or forfeiture of bond or bail involving any criminal charge or violation of ordinance (except minor traffic violations) within five (5) years immediately preceding the date of the application, indicating the precise charge, location, date and disposition.
- (g) At the Township Secretary's discretion a photograph and/or fingerprints taken by the Middlesex Township Police Department or another approved law enforcement agency within or outside Middlesex Township.

(3) The application shall be made under oath before a notary public or other officer of the Commonwealth of Pennsylvania authorized to administer oaths.

(4) If the applicant is a corporation, a duly certified copy of its articles of incorporation shall be submitted with the application.

(5) If the applicant is a partnership, a duly certified copy of the partnership agreement shall be submitted with the application.

B. Each applicant shall pay to the Township of Middlesex at the time of submitting the application a non-refundable filing fee of One Hundred (\$100.00) Dollars for an original application and a non-refundable filing fee of Fifty (\$50.00) Dollars for each renewal application. In addition, the applicant shall pay such other fees as may be required under any other Ordinance which may be applicable.

C. A License issued hereunder shall have the life or term of one (1) year from the date of issue of the final Massage Establishment License (Part II). An application for a renewal of said License for one (1) year may be filed at any time prior to the expiration of the then existing License.

SECTION 9. ISSUANCE OF MASSAGE ESTABLISHMENT LICENSE.

A. A Massage Establishment License shall consist of two (2) parts as follows:

PART I: An indication that the persons involved in said application meet the requirements of Section 8 hereinabove and that the proposed operation, if permitted, will not violate other applicable ordinances of this Township.

PART II: The final License to be issued before occupancy and use of said Establishment.

B. Within thirty (30) days after receiving a complete application, the Township Secretary may issue Part I of said Massage Establishment License to the applicant unless the said Secretary determines that (a) an individual comprising the applicant has been convicted of or has forfeited bond or bail on a charge of violating a criminal law or ordinance within five (5) years immediately preceding the filing of the application involving sexual misconduct, dishonesty, fraud or deceit, or (b) that the operation as proposed by the applicant, if permitted, would not comply with all the applicable ordinances of this Township.

SECTION 10. SUSPENSION AND REVOCATION OF MASSAGE ESTABLISHMENT LICENSE.

A. A Massage Establishment License may be suspended or revoked by the Township Secretary upon the occurrence of any of the following events:

(1) The application for such License contained false statement or statements.

(2) The Massage Establishment licensee has violated the provisions of this Ordinance.

(3) The Massage Establishment licensee has been convicted of or has forfeited bond or bail on a charge of violating a criminal law or Ordinance in this or any other jurisdiction involving sexual misconduct, dishonesty, fraud or deceit.

B. The Township Secretary shall serve the Massage Establishment licensee with written notice of said suspension or revocation, specifying the reason therefor, before said suspension or revocation shall become effective. Service of said notice shall be deemed effective if delivered to a person in apparent charge of the Massage Establishment.

C. The Massage Establishment licensee shall have the right to a hearing on said suspension or revocation, which hearing shall be held before the Township Secretary within ten (10) days after service of the notice of such suspension or revocation, whether or not the suspension or revocation was effective immediately.

SECTION 11. NECESSARY FACILITIES FOR MASSAGE ESTABLISHMENT.

No massage establishment shall be issued a permit, nor be operated, established or maintained in the Township unless an inspection by the Township Secretary reveals that the

establishment complies with each of the following minimum requirements:

A. Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the appropriate building code of the Township.

B. All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

C. Adequate bathing, dressing and locker facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.

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

E. Closed cabinets shall be provided and used for the storage of clean linens, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

F. Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for half of the water closets for the male patrons after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

G. Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or vestibule immediately adjacent thereto. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

H. The premises shall be equipped with a service sink for custodial services.

I. The premises shall comply with all building and safety codes of the Commonwealth of Pennsylvania and this Township.

SECTION 12. OPERATING REGULATIONS.

A. All areas of the Massage 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 of a Massage Establishment, including Massage Technicians, shall be clean and wear clean, nontransparent outer garments. A separate dressing room for each sex must be available on the premises and each dressing room shall contain a tub or shower in good working order and individual locker for each employee and customer. Doors to such dressing rooms shall open inward and shall be self-closing.

D. The Massage Establishment shall be stocked with clean, laundered sheets and towels in sufficient quantity and 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 a Massage Technician.

F. 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, 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 on the floors, it shall be kept dry.

G. Oils, creams, lotions and other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

H. Eating in the massage work areas shall not be permitted. Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.

I. Each Massage Technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.

J. Each patron must bathe his or her entire body on the Massage Establishment premises before submitting to massage by a Massage Technician.

K. Each Massage Establishment and each Massage Technician shall keep and maintain at all times on the premises of said Establishment a written record of the patrons served, which record shall include the name and address of the patron, the date and time (including duration) of the massage operation, the type and nature of the massage performed and the fee or other consideration charged. Said records shall be maintained for not less than five (5) years.

SECTION 13. PROHIBITED ACTIVITY.

It shall be unlawful:

A. For a Massage Technician or any other person to perform a massage on a person of the opposite sex.

B. For a Massage Technician or any other person knowingly to place his or her hand or hands upon, to touch with any part of his or her body, to fondle, or caress in any other manner, or to massage the sexual or genital area of any other person.

C. For a Massage Technician or any other person to perform, offer or agree to perform any act which would require the touching of the sexual or genital area of any other person.

D. To employ any person under the age of eighteen (18) years in any capacity in and at a Massage Establishment.

E. To permit any person under the age of eighteen (18) years to come to or remain on the premises of any Massage Establishment whether as patron, guest or otherwise.

F. To employ a person to practice massage without such person being duly licensed as a Massage Technician.

G. To practice massage outside of the Massage Establishment.

SECTION 14. DISPLAY OF LICENSES.

The license of a Massage Establishment and each Massage Technician shall be displayed in a conspicuous place within the Massage Establishment in such manner that the same may be readily seen by persons upon entering the Establishment.

SECTION 15. IDENTIFICATION CARD.

A. The Township Secretary shall provide each duly licensed Massage Technician with an identification card containing the Technician's photograph, name, License number and License expiration date.

B. Each duly licensed Massage Technician shall wear and display said identification card on the front

of his or her outermost garment at all times while on the premises of the Massage Establishment.

C. It shall be unlawful for any Massage Technician to violate the provisions of Paragraph B of this Section 15.

SECTION 16. INSPECTIONS.

A. The Township Secretary, or his designee, shall from time to time, make inspections of each Massage Establishment for the purposes of determining compliance with the provisions of this Ordinance. Such inspection shall include the right to inspect the records required to be maintained pursuant to Section 12 K hereinabove. In applying for and accepting a Massage Establishment License, the License is deemed to have agreed to such inspection without prior notice or legal process.

B. It shall be unlawful for any person to prohibit or attempt to prohibit an inspection as provided in Paragraph A above.

SECTION 17. TRANSFER OF LICENSES.

All Licenses issued hereunder are not transferable. Said Licenses are issued only for a given geographical premises in the case of a Massage Establishment License and to a specific person in the case of a Massage Technician License.

SECTION 18. DEFERRED COMPLIANCE.

A. The owner or operator of a Massage Establishment operating in this Township as of the effective date of this Ordinance may apply to the Township Secretary for

and may be granted a grace period not to exceed six (6) months in order to comply with the requirements necessary for the issuance of a final Massage Establishment License (Part II) pursuant to Section 9 of this Ordinance.

B. With the sole exception of the foregoing provisions of Paragraph A, all other provisions of this Ordinance shall become effective upon enactment thereof.

SECTION 19. PENALTIES.

A. Any person who violates any provision of this Ordinance shall be guilty of and liable for a summary offense, and upon conviction shall be sentenced to pay a fine not to exceed Three Hundred (\$300.00) Dollars and the costs of the action. In default of payment of such fine and costs, such person may be sentenced and committed to the Cumberland County Prison for a period not exceeding thirty (30) days.

B. Any person who is convicted of violating any part of Section 13 of this Ordinance shall be permanently disqualified from making application for any License hereunder in the future.

SECTION 20. EFFECTIVE DATE.

This Ordinance shall become effective in accordance with law.

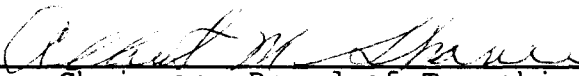
SECTION 21. SEVERABILITY.

In the event that any provision, section, sentence, clause

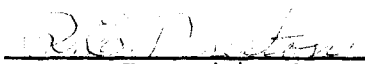
or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence clause or part of this Ordinance or other Ordinances affected by this Ordinance, it being the intent of this Board of Township Supervisors that such remainder shall be and shall remain in full force and effect.

ENACTED AND ORDAINED THIS 2nd day of December , 1987.

TOWNSHIP OF MIDDLESEX

By 
Chairman, Board of Township
Supervisors

ATTEST:


Township Secretary