

ORDINANCE NO. 2006-1039

AN ORDINANCE REGULATING MASSAGE ESTABLISHMENTS AND NON-CERTIFIED PRACTITIONERS THEREOF

BE IT ORDAINED by the Mayor and Council of the Borough of Manville in the County of Somerset and State of New Jersey, as follows:

SECTION 1. DEFINITIONS

"*Certificate*" means the document, issued by the Committee, which authorizes a person to utilize the titles set forth in N.J.S.A. 45:11-65 and 66 and N.J.A.C. 13:37-16.9.

"*Certificant*" means any person who holds a certificate from the Committee as a massage, bodywork and somatic therapist.

"*Committee*" means the Massage, Bodywork and Somatic Therapy Examining Committee established pursuant to N.J.S.A. 45:11-56.

"*License*" means the document issued by the Borough of Manville authorizing the provision of massage, bodywork and somatic services at a massage establishment.

"*Licensee*" means any person who holds a license issued by the Borough of Manville authorizing the provision of massage, bodywork and somatic services at a massage establishment.

"*Massage, bodywork and somatic therapies*" or "*massage, bodywork and somatic*" means 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 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, external application of herbal or topical preparations not classified as prescription drugs, explaining and describing myofascial movement, self-care and stress management as it relates to massage, bodywork and somatic therapies. Massage, bodywork and somatic therapy practices are designed to affect the energetic system of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability

"*Massage, bodywork and somatic therapist*" means a person certified pursuant to the provisions of N.J.S.A. 45:11-53, *et seq.*, and N.J.A.C. 13:37-16.1, *et seq.*

“*Massage Establishment*” means any establishment having a fixed place of business where massage, bodywork and somatic services are provided for a valuable consideration.

“*Permit*” means the document issued by the Borough of Manville authorizing a practitioner to render massage, bodywork and somatic in accordance with the provisions of this ordinance.

“*Permittee*” means any practitioner who holds a permit from the Borough of Manville authorizing the rendering of massage, bodywork and somatic in accordance with the provisions of this ordinance.

“*Person*” means a natural person, partnership, association, company, corporation, organization, legal entity, or managing agent, servant, officer or employee of any of them.

“*Practitioner*” means any person who renders massage, bodywork and somatic services for a valuable consideration but who does not hold a certificate from the Committee.

SECTION 2. PROHIBITED CONDUCT

- A. No person shall operate a massage establishment without first having obtained a license therefor in accordance with the provisions of this ordinance.
- B. A licensee shall require that the permit of any permittee performing massage, bodywork or somatic services within the licensed premises be prominently displayed so that same is clearly visible to any patron receiving such services from a permittee.
- C. No person shall render massage, bodywork or somatic services unless such person is a certificant or permittee, and only in accordance with the provisions hereof, or unless otherwise exempted pursuant to Section 6, hereof.
- D. No permittee shall render, and no licensee or certificant shall permit or allow a permittee to render massage, bodywork or somatic services unless same is performed under the direct supervision of a certificant and within the certificant’s scope of practice as regulated by *N.J.A.C. 13:37-16.7*.
- E. A permittee shall adhere to all standards and regulations applicable to certificants including those more particularly set forth in *N.J.A.C. 13:37-16.7*, *N.J.A.C. 13:37-16.8*, *N.J.A.C. 13:37-16.12*, *N.J.A.C. 13:37-16.14*, and *N.J.A.C. 13:37-16.16*.

SECTION 3. MASSAGE ESTABLISHMENT LICENSE

A massage establishment license shall be granted to a certificant or other person only upon approval of an application therefor by the Mayor and Council. The application shall be filed with the Borough Clerk and a non-refundable application/license fee of \$250.00 shall be paid at the time of filing. The license shall be valid for the remainder of the calendar year, shall not be transferable, and shall be subject to annual renewal as of January 1 of each year. The non-refundable application/license fee shall not be pro-rated based upon the date of filing or date of approval. All applications shall be forwarded to the Borough agencies of Police, Health, Building, and Zoning for review and report to the Mayor and Council.

A. If the application for licensure is filed by a certificant as the sole owner of the massage establishment, it shall provide the following information:

1. Certificant's name, address, telephone number;
2. Address of proposed licensed premises;
3. Certificate number and dates of validity thereof;
4. Certificant's scope of practice as regulated by *N.J.A.C 13:37-16.7*;
5. Address of proposed massage establishment and name under which it will conduct business;
6. Proof of comprehensive general liability insurance in the minimum amount of \$1 million per occurrence and professional liability insurance in the minimum amount of \$1 million per occurrence.

B. If the application for licensure is filed by other than a certificant as the sole owner of the massage establishment, it shall provide the following information concerning all persons having a 10% or greater ownership interest in the massage establishment:

1. Name, addresses for the 5 years immediately preceding the application, and current telephone number;
2. Proof that the applicant is at least 18 years of age;
3. Disclosure of any convictions of crime, sexually related disorderly persons offenses, any offenses involving moral turpitude, or pre-trial intervention and diversion from the criminal justice system with respect to any crimes or such offenses;
4. Description of business, occupation or employment for the 5 years immediately preceding the application;
5. Description of experience in rendering massage, bodywork or somatic
6. Name, address, telephone number and written consent of the certificant who will be responsible for direct management of the massage establishment;

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7. Address of proposed massage establishment and name under which it will conduct business;
 8. Proof of comprehensive general liability insurance in the minimum amount of \$1 million per occurrence and professional liability insurance in the minimum amount of \$1 million per occurrence.

All applicants other than certificants shall provide a written consent for the Borough to conduct a criminal records check, shall submit to being fingerprinted, and shall pay the cost thereof in addition to the application/license fee.

SECTION 4. PRACTITIONER'S PERMIT

A practitioner's permit shall be granted only upon approval of an application therefor by the Mayor and Council. The application shall be filed with the Borough Clerk and a non-refundable application/license fee of \$100.00 shall be paid at the time of filing. The permit shall be valid for the remainder of the calendar year, shall not be transferable, and shall be subject to annual renewal as of January 1 of each year. The non-refundable application/permit fee shall not be pro-rated based upon the date of filing or date of approval. All applications shall be forwarded to the Borough agencies of Police and Health for review and report to the Mayor and Council.

The application shall contain the following information:

- A. Name, addresses for the 5 years immediately preceding the application, and current telephone number;
- B. Proof that the applicant is at least 18 years of age;
- C. Disclosure of any convictions of crime, sexually related disorderly persons offenses, any offenses involving moral turpitude, or pre-trial intervention and diversion from the criminal justice system with respect to any crimes or such offenses;
- D. Description of business, occupation or employment for the 5 years immediately preceding the application;
- E. Name and address of the massage establishment at which the applicant intends to practice;
- F. Description of experience in rendering massage, bodywork or somatic services.

All applicants other than certificants shall provide a written consent for the Borough to conduct a criminal records check, shall submit to being fingerprinted, and shall pay the cost thereof in addition to the application/permit fee.

SECTION 5. REGULATION OF BUSINESS

Licensees shall be responsible for all activities conducted on the licensed premises. In the event any violation of the provisions of this ordinance or the

provisions of applicable statutory, or other rules and regulations of the State of New Jersey referenced in this ordinance occur at a massage establishment, the license shall be subject to suspension or revocation by the Mayor and Council following notice and an opportunity for the licensee to be heard.

In the event of any violation of the provisions of this ordinance or the provisions of applicable statutory or other rules and regulations of the State of New Jersey referenced in this ordinance by a permittee, the permit shall be subject to suspension or revocation by the Mayor and Council following notice and an opportunity for the licensee to be heard.

Action against a licensee or permittee under this section shall be in addition to, and not in lieu of, the penalties provided for in Section 10, hereof.

SECTION 6. EXEMPTIONS

The requirements of this Ordinance shall have no application and effect upon any physician, surgeon, chiropractor, osteopath, nurse, nurse practitioner, physician's assistant, or physical therapist duly licensed to practice such professions in this State or to any person performing massage, bodywork and somatic services under the supervision of such licensed person. This ordinance shall not apply to any school certified to teach massage by the New Jersey Department of Education.

SECTION 7. CONSTRUCTION

Where consistent with the context in which used in this ordinance, words importing the singular shall include the plural; words importing the plural shall include the singular; and, words importing one gender shall include all other genders.

SECTION 8. INCONSISTENCY

Should any provision of this ordinance be inconsistent with the provisions of any prior ordinances, the inconsistent provisions of said prior ordinances are hereby repealed, but only to the extent of such inconsistencies.

SECTION 9. SEVERABILITY

In the event that any provision of this ordinance, or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect, and, to realize this intent, the provisions and applications of this ordinance are declared to be severable.

SECTION 10. PENALTY

Upon conviction for violation of any provision of this ordinance the maximum penalty shall be one (1) or more of the following: a fine not to exceed Two Thousand (\$2000.00) Dollars, imprisonment in the County Jail for a period not to exceed ninety (90) days, and/or a period of community service not to exceed ninety (90) days. Each and every day upon which a violation of any provision of this ordinance exists shall constitute a separate violation.

SECTION 11. PURPOSE OF CAPTIONS

Captions contained in this ordinance have been inserted only for the purpose of facilitating reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

SECTION 12. EFFECTIVE DATE

This ordinance shall be effective October 1, 2006, upon final adoption, approval and publication in accordance with law.

Borough of Manville

Angelo Corradino, Mayor

ATTEST:

Philip E. Petrone, Borough Clerk

STATEMENT OF PURPOSE

The purpose of this Ordinance is to regulate the practice of massage therapy within the Borough of Manville.

ORDINANCE #2006-1039

FIRST READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		ASHER	√			
		OTRIMSKI				√
√		PETROCK	√			
		PETRONE	√			
		QUICK	√			
	√	SZABO	√			
		MAYOR CORRADINO				

PASSED this 22nd day of May, 2006.

Attest:

Philip E. Petrone, Borough Clerk

SECOND READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		ASHER	√			
		OTRIMSKI	√			
		PETROCK				√
	√	PETRONE	√			
√		QUICK	√			
		SZABO	√			
		MAYOR CORRADINO				

PASSED this 26th day of June, 2006.

Attest:

Philip E. Petrone, Clerk