

CHARTER TOWNSHIP OF HAMPTON

ORDINANCE NUMBER 41

MASSAGE PARLOR ORDINANCE

An Ordinance to provide for the exercise of certain municipal powers of the Charter Township of Hampton and for the health, safety and welfare of persons and property in the Charter Township of Hampton and to provide penalties for the violation of the provisions thereof and in particular to provide for the licensing of massage parlors and schools, to regulate their conduct, to regulate the conduct of said occupations within the Township, and to provide for the general welfare, health and safety of persons and property within the Township.

Section 1. DEFINITIONS

For the purposes of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them.

Applicant: Any person that desires or is required to be licensed under this section.

Apprentice or student: Any person, who, under the guidance of an instructor in a massage school or in a massage parlor is being trained or instructed in the theory, method or practice of massage.

Conductor: Any person who owns, manages or is in charge of a massage parlor or massage school.

Instructor: Any person who gives lessons or teaches the theory, method or practice of massage.

Massage: The scientific act of body massage, whether by hand, fingers or with a nonpowered mechanical or electrical apparatus, for the purpose of body massage or contouring and includes the use of oil rubs, salt glows, hot and cold packs and baths.

Massage parlor: Any place or establishment where a massage is made available, or any place or establishment where steam baths, free standing saunas and/or jacuzzis are made available for a fee if the majority of the revenue of the establishment or place is derived from steam baths, free standing saunas and/or jacuzzis.

Massage school: Any place or establishment or facility which provides instructions in the theory, method and practice of massage.

Operator: Any person who engages in the practice of or performs a massage.

Section 2. LICENSES REQUIRED

No person, either by himself or with others, shall own, establish or maintain a massage parlor or massage school unless the massage parlor or school is duly licensed.

No person shall act as a conductor in any massage parlor or massage school as defined in this Ordinance unless such person is duly licensed to act in such capacity by the Charter Township of Hampton. No person shall act as an instructor, operator, apprentice, or student in any massage parlor or massage school unless such person is duly licensed to act in such capacity according to the laws of the State of Michigan and the Code of Ordinances of the Charter Township of Hampton.

Each applicant shall have the Bay County Health Department furnish to the Township clerk such test results as required by the health department and the Township that would indicate that the applicant is free of communicable diseases.

The provisions of this Ordinance shall not apply to:

- (a) A person engaging in the practice of massage on his spouse or relative within the first degree of consanguinity in either of their residences;
- (b) A place or establishment which is a duly licensed hospital, dispensary or convalescent home or is a place or establishment where a massage upon the face and neck only is performed for beautifying or cosmetic purposes.

In any prosecution for violation of this Ordinance, these exemptions shall constitute affirmative defenses and it shall be incumbent upon the defendant to show that he or the place involved is not subject to the provision of this Ordinance. Nothing herein contained shall be deemed to shift the burden of proof of the violation to the defendant.

A license for an apprentice, student, conductor, instructor or operator shall not be required of a duly licensed medical doctor, osteopath, chiropractor, nurse or physical therapist.

Section 3. APPLICATION FOR LICENSES; APPEAL UPON DENIAL

Any person desiring a license required under the provisions of this Ordinance shall file with the Township clerk an application therefor on a form prescribed and supplied by the Township clerk.

Before any license under this Ordinance shall be granted, the application shall be referred to the police department, fire department, health department and the building department for a report prerequisite to issuance. If the applicant is determined not to be qualified by any department, then the department shall state in writing its reasons for the disapproval of the application and forward the reasons to the Township clerk who then shall notify the applicant that the license has been denied, attaching a copy of the departmental report. In the event each of the departments shall file a favorable report with the Township clerk's office, the Township clerk shall forthwith issue the license upon payment of the fees as hereinafter provided.

Any person determined to be aggrieved by the denial of an application by the Township clerk shall have the right to appeal such denial to the Township Board.

Section 4. LICENSE FEE

A fee shall be charged for each license as shall be determined by the Township Board from time to time by resolution.

Section 5. AGE, CHARACTER QUALIFICATIONS

Applicants and employees of applicants licensed hereunder shall be at least eighteen (18) years of age and of good moral character.

Section 6. DISPLAY OF LICENSE

All license certificates issued under this Ordinance shall be displayed by the licensee in a place readily viewable by the public.

Section 7. SUSPENSION OR REVOCATION OF LICENSE

A license issued under this chapter may be suspended or revoked by the Township Board for failure to comply with any of the requirements of said Ordinance.

Section 8. INSPECTION OF PREMISES

Every establishment being operated as a massage parlor or massage school shall be open for inspection by duly authorized representatives of any Township department concerned with the licensing and supervision of such establishment during operating hours for the purpose of enforcing any provisions of this Ordinance or other ordinances or regulations of the Township relating to the public health, safety and welfare.

It shall be unlawful for any person to refuse entry to premises in which a massage parlor or massage school is being operated by duly authorized Township representatives for the purposes of making lawful inspections.

Section 9. CONDUCT ON PREMISES

It shall be unlawful for any person to conduct a massage parlor or a massage school or to provide a massage unless he or she shall have complied with the following:

- (a) Service in massage parlors licensed under this Ordinance shall be limited to exercise, baths and massage. Medical Treatment of any kind shall not be given to any patron without a prescription from a registered physician. The use of heat lamps only will be permitted.

- (b) No person who has any visible symptoms of a communicable disease, such as a rash, discharge or fever or who is complaining of a sore throat may be attended by any licensee under this Ordinance or any person engaged in the practice of massage.
- (c) Advertising that there is a nurse in attendance is prohibited unless there is a registered graduate nurse constantly in attendance during the business hours of the massage parlor.
- (d) Advertising that there is a doctor in attendance is prohibited unless there is a registered physician constantly in attendance during the business hours of the massage parlor.
- (e) Licensees shall exercise every precaution for the safety of patrons. They shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.
- (f) No massage parlor shall be conducted in direct connection with living quarters, unless especially approved by the Township.
- (g) The premises used for a massage parlor shall be well-lighted and ventilated. They shall be kept clean and the furniture and equipment shall be maintained in a safe and sanitary condition. There shall be an adequate supply of running hot and cold water during business hours. Bathing devices shall be thoroughly cleaned and disinfected before the use of each patron.
- (h) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered and disinfected before offered to another.
- (i) Uniforms or garments covering the torso shall be worn by conductor, instructor, operator or apprentice while attending patrons. Such uniforms or garments shall be of washable material, and shall be kept in clean condition, and the sleeves shall not reach below the elbow.
- (j) The skin of the hands of those attending patrons shall be clean and in healthy condition and the nails shall be kept short. The hands shall be washed thoroughly before giving the patron any attention.
- (k) Licensees shall be restricted in the exercise of their license to the places set forth in their certificate; except that the giving of massage, baths and exercise in the patron's place of residence is permitted.

- (l) Licensees shall notify the department of health of any change of name or address of their home or business.
- (m) No massage shall be performed in a massage parlor or massage school in a private room which is closed to the view of other persons.
- (n) The private parts of patrons must be covered when in the presence of a conductor, operator or instructor. Any contact with a patron's genital area is prohibited.

Section 10. PERMITTING VIOLATING USE OF PREMISES

It shall be unlawful for any person to knowingly allow the use of any place, business, establishment or premises owned, operated, leased or managed by him to be used in violation of any provisions of this Ordinance.

Section 11. VIOLATIONS

It shall be a misdemeanor for any person to violate any provision of this Ordinance, or to aid, assist or abet another to violate such provision.

Section 12. REVOCATION, DENIAL OF LICENSE

No person shall be issued a license under this section or any license may be revoked:

- (a) Where the applicant for any license under this section including but not limited to any individual operator, managing agent of a corporation, or active partner who has been convicted of a crime involving a controlled substance, alcohol, minors or a crime involving moral turpitude, such as prostitution, soliciting, loitering for purposes of prostitution or soliciting, reduction of prostitution or soliciting charges to disorderly, or criminal sexual conduct, sale or use of drugs, theft or the conviction of any felony.
- (b) For any premises or applicant unless the building code, fire code, health code and other pertinent provisions of all Township ordinances, as far as can be determined, are being complied with.
- (c) For any premises that do not comply with requirements of the zoning ordinance of the Charter Township of Hampton.
- (d) For any premises that do not provide space for safe ingress and egress to the premises.
- (e) For any premises having living quarters with direct entry to the premises.

- (f) For any premises or applicant where a revocation of a license occurs, no licenses under this section shall be issued for the premises for a period of three (3) years.
- (g) Whenever the Township Board shall find that the denial of such license is necessary for the protection and conservation of the character and social and economic stability of the surrounding area.

Section 13. REVOCATION, REFUSAL TO ISSUE OR RENEW LICENSE

The Township clerk shall revoke, refuse to approve issuance or renewal of a massage parlor license for one or more of the following reasons:

- (a) A false statement as to a material matter made in an application for a permit.
- (b) Revocation of a permit, pursuant to this article, of the applicant or corporate officer of the applicant within (3) years preceding the filing of the application.
- (c) The applicant for such license has, within the past ten (10) years, been convicted of a crime involving moral turpitude as defined in Section 12 (a) of this code, sale or use of drugs or conviction of any felony.
- (d) Violation of fire code, zoning code, building code, health code, Township ordinance or state law.

Section 14. CONDUCTORS RESPONSIBILITY

It is the responsibility of the conductor to ensure that all applicants in his establishments are properly licensed by the State of Michigan and the Charter Township of Hampton and the conductors failure to have or display all licenses for applicants or personnel required to be licensed in his establishments is a crime punishable pursuant to Section 15 of this Ordinance.

Section 15. VIOLATION, PENALTY

- (1) For the first violation of this Ordinance a fine of not more than one hundred dollars (\$100.00), and/or a five (5) day suspension of the massage parlor license, and/or up to thirty (30) days in jail.
- (2) For a second violation of this Ordinance a fine of not more than two hundred and fifty dollars (\$250.00), and/or a fifteen (15) day suspension of the massage parlor license, and/or up to sixty (60) days in jail.
- (3) For a third violation of this Ordinance a fine of not more than five hundred dollars (\$500.00), and/or the revocation of the massage parlor license and/or up to ninety (90) days in jail.

Section 16. PENALTY

Any person who shall violate any of the provisions of this ordinance shall be subject to a fine of not more than \$100.00 or imprisonment in the County Jail not to exceed 90 days or both, such fine and imprisonment in the discretion of the Court.

Section 17. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 18. ORDINANCES REPEALED

All ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 19. EFFECTIVE DATE

This ordinance shall take effect immediately upon publication thereof.