

ORDINANCE NO. 160

AN ORDINANCE OF THE TOWNSHIP OF SPRINGFIELD, BUCKS COUNTY, PROVIDING FOR THE LICENSING AND REGULATION OF MASSAGE ESTABLISHMENTS AND EMPLOYEES, DUTIES OF THE TOWNSHIP, IMPOSITION OF LICENSING FEES, FINES AND PENALTIES FOR VIOLATIONS.

WHEREAS, the Board of Supervisors of Springfield Township, Bucks County, Pennsylvania, deems it to be in the best interest and general welfare of the citizens and the residents of Springfield Township to provide for the licensing and regulation of massage establishments and thereby protect the health, safety and welfare of its citizens and protect the citizens' property values and character of surrounding neighborhoods;

WHEREAS, the Second Class Township Code, Act May 1, 1993, P.L. 103, as amended, 53 P.S. 66529, authorizes the Board of Supervisors to prohibit nuisances, promote the health, cleanliness and safety of citizens of Springfield Township;

WHEREAS, the Board of Supervisors of Springfield Township finds that massage establishments used for the purposes of prostitution are detrimental to the health, safety, good morals and general welfare of Springfield Township;

WHEREAS, the Supervisors hereby declare such activities to be illegal as hereinafter setforth and declare that massage establishments should be regulated as provided in this Ordinance;

WHEREAS, a reasonable licensing procedure is an appropriate mechanism to place the burden of the reasonable regulation on the owners and the operators of the massage establishments. Further, such a licensing procedure will ensure that the massage establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Township. The Board of Supervisors finds that it is appropriate to require reasonable assurances that the licensee is the actual operator of the massage establishments, fully in possession and control of the premises and activities occurring therein; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Springfield Township, Bucks County, Pennsylvania, as follows:

SECTION 1. DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply:

(a) Employee - Any person over eighteen (18) years of age, other than a massagist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

(b) Massage - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand, mechanical device, or other means, or the stimulation of the external parts of the human body with the hands or other instrument.

(c) Massage Establishment - An establishment which provides the services of massage for compensation, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth.

(d) Massagist, Masseur or Masseuse - Any person who, for any consideration whatsoever, engages in the practice of massage as defined in Subsection (b).

(e) Patron - Any person over eighteen (18) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(f) Person - any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(g) Prostitution - Engaging in sexual activity as a business including:

(i) The fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts;

(ii) Acts of human masturbation, sexual intercourse or sodomy; or

(iii) other deviate sexual relations.

(h) Recognized School – any school, academy or educational institution which has for its purpose the teaching of theory, method, profession or work of massage.

(h) Sexual or Genital Area - Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

SECTION 2. PERMIT REQUIRED.

(a) Business license required. No person shall operate a massage establishment unless he has a valid massage business license issued by the Township pursuant to the provisions of this ordinance for each and every separate office or place of business conducted by such person. Existing massage establishments shall submit applications for licenses within sixty (60) days of enactment of this ordinance.

(b) Massage permit required. No person shall practice massage as a massagist, employee or otherwise for compensation within the Township, unless he or she has a valid massagist's permit issued by the Township pursuant to this Ordinance.

SECTION 3. EXEMPTIONS.

This Ordinance shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Pennsylvania.

(b) Nurses who are registered under the laws of this state.

(c) Barbers and beauticians who are duly licensed under the laws of this State except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

(d) In any prosecution for violation of this Ordinance, the foregoing exemptions shall constitute affirmative defenses and it shall be incumbent upon the defendant to show that she/he or the place involved are not subject to the provisions of this Ordinance. Nothing herein contained shall be deemed to shift the burden of proof of the violation to the defendant.

SECTION 4. APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE.

Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application under oath with the Township upon a form provided by the Township and pay a nonrefundable annual license fee, which shall be \$100 per year or any part thereof. The application shall contain the following information:

(a) A definition of the service to be provided.

(b) The location, mailing address and all, telephone numbers where the business is to be conducted.

(c) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership).

1. If applicant is a corporation, the name and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.
2. If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.

- (d) The two (2) previous addresses immediately prior to the present address of the applicant.
- (e) Proof that the individual applicant is at least eighteen (18) years of age.
- (f) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.
- (g) Copy of identification such as driver's license and social security card.
- (h) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
- (i) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another township or state has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (k) All criminal convictions for sexual offenses including violations of Sections 3121-27 and 5901-03 of the Pennsylvania Crimes Code, including the date of convictions, nature of the crimes and place convicted.
- (l) The name, date of birth and address of each massagist who is or will be employed in said establishment.
- (m) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in Subsection (c) wherein the business or profession of massage is carried on.
- (n) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (o) Authorization for the Township, 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.

The application shall not be accepted until all of the foregoing information is supplied to the Township. The holder of any massage establishment license shall notify the Township of any change in data required to be furnished by this Section within ten (10) days after such change occurs, including the name, date of birth and address of new employees.

SECTION 5. APPLICATION FOR MASSAGIST PERMIT.

The application for a massagist business permit shall be made to the Township in the same manner as provided above for massage establishment licenses, accompanied by

the nonrefundable massagist permit fee of \$75.00. The application shall contain but not be limited to the following:

(a) The business address and all telephone numbers where the massagist will practice.

(b) Name and residence address, and all names, nick names and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.

(c) Social Security number, driver's license, if any, and date of birth.

(d) Applicant's weight, height, color of hair and eyes, and sex.

(e) Written evidence that the applicant is at least eighteen (18) years of age.

(f) A complete statement of all convictions of the applicant for any sexual offenses including violations of Sections 3121-27 and 5901-03 of the Pennsylvania Crimes Code, including the date of convictions, nature of the crimes and place convicted.

(g) The name and address of the recognized school attended, the dates attended and a copy of any diploma, certification or letter of recognition of attendance.

(h) The massage or similar business history and experience (10 years) prior to the date of application, including but not limited to whether or not such person in previously operating in this or another Township or State under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(i) A medical certificate signed by a physician, licensed to practice in the State of Pennsylvania, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certified physician and that the applicant is free of communicable disease.

(j) Authorization for the Township, 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.

(k) Written declaration by the applicant, 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.

SECTION 6. ISSUANCE OF LICENSE OR PERMIT FOR A MASSAGE ESTABLISHMENT.

The Township shall issue a license for a massage establishment after approval by the Township Manager, Township Zoning Officer or other authorized Township official, if all requirements for a massage establishment or massagist permit described in this ordinance are met unless it finds:

(a) The correct permit or license fee has not been tendered to the Township, and, in the case of a check, or bank draft, honored with payment upon presentation.

(b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the Township's building, plumbing, zoning, and health regulations.

(c) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person principally in charge of the operation of the business, have been convicted of an offense involving sexual misconduct or convicted of any offense outside the Commonwealth of Pennsylvania that would have constituted an offense of sexual misconduct if committed within the Commonwealth of Pennsylvania. The Township may issue a license or permit to any person convicted of an offense involving sexual misconduct if it finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent conviction of any such nature.

(d) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the Township in conjunction therewith.

(e) The applicant has had a massage business, masseur, or other similar permit or license lawfully denied, revoked, or suspended by the Township or any other State or local agency within five (5) years prior to the date of the application.

(f) The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.

SECTION 7. APPROVAL OR DENIAL OF APPLICATION.

The Township shall act to approve or deny an application for a license and/or permit under this ordinance within a reasonable period of time and in no event shall the Township act to approve or deny said license or permit later than ninety (90) days from the date that said application was accepted by the Township. Every license or permit issued pursuant to this Ordinance will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked.

SECTION 8. MULTIPLE MASSAGE ESTABLISHMENTS.

Should any massage business have more than one location where the business of massage is pursued, then a permit, stating both the address of the principal place of business, and of the other location (s) shall be issued by the Township upon the tender of a license fee of \$100.00 per location. Licenses issued for other locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance.

SECTION 9. POSTING OF LICENSE.

Every person, corporation, partnership, or association licensed under this Ordinance shall display such license in a prominent place.

SECTION 10. REGISTER OF EMPLOYEES.

The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time as massagists, masseurs or masseuses. Such register shall be available at the massage establishment to representatives of the Township during regular business hours.

SECTION 11. REVOCATION OR SUSPENSION OF LICENSE OR PERMIT.

Any license or permit issued for a massage establishment or for a massagist may be revoked or suspended by the Township after notice and a hearing, for good cause, or in any case where any of the provisions of this Ordinance are violated or where any employee of the licensee, including a masseur or masseuse is engaged in any conduct which violates any of the State or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge by due diligence.

- (a) Prior to revoking or suspending a license or permit, the Township shall send notice of its intent to do so to the licensee's or permit holder's last known address.
- (b) The licensee or permit holder shall have the right to a hearing before the Township Zoning Officer and shall have the right to be represented by legal counsel at said hearing.
- (c) The licensee or permit holder shall have the right to present witnesses and evidence at the hearing and to cross-examine any witnesses presented against them.
- (d) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

SECTION 12. OPERATING REQUIREMENTS.

All employees including masseurs and masseuses, shall be clean and wear clean, non-transparent outer garments, covering the sexual and genital areas.

SECTION 13. PERSONS UNDER AGE 18 PROHIBITED ON PREMISES.

No person subject to the provisions of this ordinance shall permit any person under the age of eighteen (18) to come or remain on the premises of any massage business establishment unless such person is on the premises on lawful business.

SECTION 14. HOURS.

No massage business shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m.

SECTION 15. INSPECTION REQUIRED.

The Township or its authorized representatives shall from time to time make inspection of each massage business establishment for the purposes of determining that the provisions of this ordinance are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or hinder such officer in any manner.

SECTION 16. UNLAWFUL ACTS.

- (a) It shall be unlawful for any person in a massage establishment to engage in prostitution.
- (b) It shall be unlawful for any person in a massage establishment to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- (c) It shall be unlawful for any person in a massage establishment to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a massage establishment to expose the sexual or genital parts, or any portions thereof, of any other person.
- (d) It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
- (e) It shall be unlawful for any person owning, operating or managing a massage establishment, knowingly to cause, allow or permit in or about such massage

establishment, any agent employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (a), (b), (c) or (d) of this Section.

SECTION 17. SALE OR TRANSFER OR CHANGE OF LOCATION.

Upon sale, transfer or relocation of a massage establishment, the license therefore shall be null and void unless approved as provided in Section 6 provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or devisee of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license.

SECTION 18. NAME AND PLACE OF BUSINESS.

No person granted a license pursuant to this Ordinance shall operate the massage establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license.

SECTION 19. ADVERTISEMENT.

It shall be unlawful for any person to advertise the offering of massage services unless the advertised establishment is duly licensed under the provisions of this Ordinance.

SECTION 20. RESPONSIBILITY OF OWNERS OF PROPERTY.

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 of the provisions of this article.

SECTION 21. TRANSFER OF LICENSE.

No license or permit shall be transferable except with the consent of the Township. An application for such transfer shall be in writing and shall be accompanied by fees prescribed in Sections 4 and 5. The written application for such transfer shall contain the same information as requested herein for initial application for the license or permit.

SECTION 22. SEVERABILITY.

(a) 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.

(b) All ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 23. FINES AND PENALTIES.

Any person violating any provision of this Ordinance or Section of this Ordinance shall, upon conviction in summary proceedings before any District Justice, be fined no more than \$300.00. Each day that a violation occurs or is continued, shall constitute a separate offense. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the fine or penalty imposed and the costs, the defendant may be sentenced and undergo imprisonment for a period not exceeding thirty (30) days.

The imposition of the fines and penalties herein prescribed, shall not preclude the Township from instituting appropriate action by injunction or otherwise to prevent any violation of this Ordinance.

SECTION 24. REPEALER

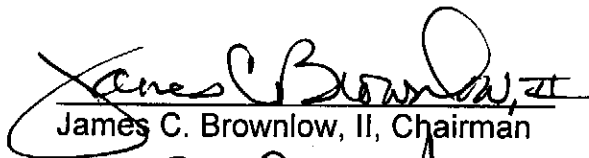
All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of any such inconsistency.

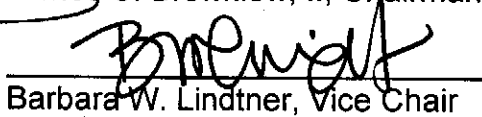
SECTION 25. EFFECTIVE DATE

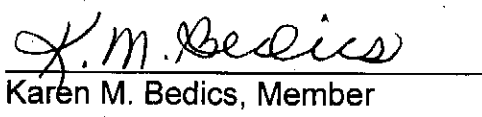
This Ordinance shall become effective five (5) days after its adoption.

ORDAINED AND ENACTED into Ordinance this 9th day of November 2010.

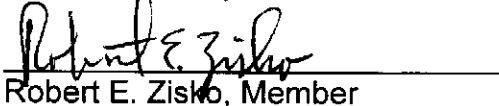
**BOARD OF SUPERVISORS
SPRINGFIELD TOWNSHIP**


James C. Brownlow, II, Chairman


Barbara W. Lindtner, Vice Chair


Karen M. Bedics, Member


Volker G. Oakey, Member


Robert E. Zisko, Member

ATTEST:


Richard H. Schilling, Twp. Manager