

ORDINANCE NO. 862

AN ORDINANCE PERTAINING TO THE MASSAGE AND MASSAGE PARLORS, INCLUDING LICENSING, REQUIREMENT OF PERMITS, APPLICATION FOR PERMITS AND THE CONTENTS THEREOF, REGULATIONS, INSPECTIONS, AND WITH THE PROVISION OF PENALTIES, IN CONNECTION WITH MASSAGE AND MASSAGE PARLORS.

THE TOWNSHIP OF BIRCH RUN ORDAINS:

1. Definitions. For the purpose of this Ordinance, the following words and phrases have the meanings respectively ascribed to them:

- (1) "Apprentice or student" shall mean 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.
- (2) "Instructor" shall mean any person who gives lessons or teaches the theory, method or practice of massage.
- (3) "Massage" shall mean the performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking or tapping with the hand or hands or with any mechanical or bathing device with or without supplementary aids.
- (4) "Massage parlor" shall mean any place or establishment where a massage is made available.
- (5) "Massage school" shall mean any place or establishment or facility which provides instructions in the theory, method and practice of massage.
- (6) "Massagist" shall mean any person who engages in the practice of or performs a massage.

2. Exemptions. The provisions of this Ordinance shall not apply to the following:

- (1) A duly licensed medical doctor, osteopath, chiropractor, nurse or physical therapist;
- (2) A person engaging in the practice of massage on his spouse or relative within the first degree of consanguinity in either of their residences; or
- (3) 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.

3. Permit Required. No person shall practice, engage in, carry on or operate the business of a massagist or conduct, operate and carry on a massage parlor, massage school, or similar business within the Township without first having applied for and obtained the required permit, and complying with all regulations and requirements, as herein contained and set forth, and as required by the Ordinances of the Township, nor shall any person employ, as a massagist any person who does not hold a current unrevoked permit as required by this Ordinance. No persons shall practice massage for compensation without obtaining and maintaining in effect a permit as a massagist as required by this Ordinance.

4. Requirements and Duties. It shall be the responsibility of an owner, operator, manager or permittee hereunder in charge of or in control of a massage parlor, massage school or similar business to insure that each person employed or engaged by him in said business as a massagist shall have first obtained a valid massagist permit pursuant to this Ordinance. Any owner, operator, manager or permittee in charge of or in control of a massage parlor, massage school or similar business, who employs a person performing as a massagist as defined in this Ordinance, who is not in possession of a valid massagist permit, or allows such an employee to perform, operate or practice within a massage parlor shall be in violation of this Ordinance.

5. Application Investigation Fee. Any person desiring to obtain a permit to operate a massage parlor, massage school or similar business, or to perform massage services shall make application to the Township Clerk, who shall refer all such applications to the Township Code Enforcement Officer for an investigation. An application to obtain a permit to operate a massage parlor, massage school or similar business shall be accompanied by an investigation fee, no part of which shall be refundable.

- (1) Each application for a permit to allow an individual to perform massage services shall be accompanied by an investigation fee, no part of which shall be refundable.
- (2) The application fee required herein shall be payable to the Township Clerk at the time the application is filed and said application fee shall be in addition to any other license, permit or fee required under this or any other Township Ordinances.
- (3) Such fees as required by this ordinance shall be established by Township Board resolution and those fees for investigatory expense shall cover costs incurred by the Township in conducting the investigation.

6. Application Contents. Any applicant for any of the permits required shall submit the following information:

- (1) The full name and present address of the applicant or applicants.
- (2) The two previous addresses immediately prior to the present address of applicant and dates of residence.
- (3) A description of service to be provided.

- (4) The location and mailing address of the proposed establishment.
- (5) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation, and of each stockholder owning more than ten (10%) percent of the corporation.
- (6) If the applicant is a partnership, the names and residence addresses of each of the partners including limited partners.
- (7) Written proof (birth certificate or sworn affidavits) that the applicant is at least eighteen (18) years of age.
- (8) Height, weight, sex, color of eyes and hair of each individual applicant or members of a partnership or officers or directors of a corporation.
- (9) One portrait photograph at least two (2) inches by two (2) inches and a complete set of fingerprints, which shall be taken by the Township Code Enforcement Officer or his representative.
- (10) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of the application.
- (11) A certificate from a medical or osteopathic doctor stating that the applicant has, within thirty (30) days immediately prior thereto, been examined and found to be free of any contagious or communicable diseases.
- (12) The history of the applicant in the operation of a massage parlor or similar business or occupation, including, but not limited to, whether or not such persons, in previously operating in this or another city or state under license, has had such license revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (13) All criminal convictions other than traffic violations and the reasons therefor.
- (14) The application shall be signed and sworn to by said applicant.
- (15) Such other identification and information deemed necessary by the Township and as required to provide for investigation of the applicant.

In addition, the following additional information shall be contained in an application for a permit to conduct a massage parlor: the number of employees and names and qualifications of all persons who are intended to give massages in the proposed parlor.

7. Permit Procedures. Any applicant for a permit pursuant to these provisions shall present to the Township Clerk the application containing the aforementioned and described information. The application shall be referred to the Township Code Enforcement

Officer who shall have a reasonable time in which to investigate the application and the background of the applicant. Based on such investigation, the Township Code Enforcement Officer or his representative, shall render a recommendation as to the approval or denial of the permit to the Township Clerk.

The Township Code Enforcement Officer shall recommend denial of an application for a permit hereunder if the character, reputation, moral integrity, or physical or mental condition of the applicant or his employees is found to be inimical to the public health, safety, morals or general welfare.

In making his determination hereunder, the Township Code Enforcement Officer shall consider:

- (1) Penal History. All applicant's convictions, the reasons therefor, and the comportment of the applicant subsequent to his release;
- (2) License and Permit History. The license and permit history of the applicant, whether such person in previously operating in this Township or State or in another Township, City or State under a license or permit has had such license or permit revoked or suspended; the reasons therefor; and the comportment of the applicant subsequent to such action.

7. Inspection of the Premises. Every establishment which offers massage services, or is operated as a massage parlor or massage school shall be open for inspections by duly authorized representatives of the Township concerned with the licensing and supervising of such establishment during operating hours for the purpose of enforcing any of the provisions of this Ordinance or other ordinances or regulations of the Township relating to the public health, safety and welfare, including all requirements of this Ordinance and other Ordinances of the Township.

- (1) No license shall be granted for the establishment or operation of a massage parlor or massage school until inspections have been made as required by the applicable laws and regulations of the Township and approval obtained from the Township regulating the maintenance, use, operation, location and health and sanitary conditions of the premises.
- (2) It shall be unlawful for any person to refuse entry to any premises in which a massage parlor or massage school is being operated, by duly authorized Township representatives for the purpose of making lawful inspections.

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

- (1) 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 and sun-ray lamps only will be permitted.

- (2) 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.
- (3) Serving or attending in a massage parlor of patrons of the opposite sex is prohibited; provided, that this provision shall not apply in cases in which such service or attending is under the direct supervision of any person licensed in the "practice of medicine" under the Michigan Public Health Code, MSA 14.15 (17001) et. seq.
- (4) Each applicant for an apprentice's or student's certificate of registration or for any instructor's or operator's license under this Ordinance or a renewal thereof, shall present a certificate from a registered physician, certifying that he is free from communicable disease.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) No massage parlor shall be conducted in direct connection with living quarters.
- (9) 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 before the use of each patron.
- (10) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered before being offered to another.
- (11) Uniforms or garments covering the torso shall be worn by instructor, massagist or apprentice while attending patrons, which shall be of washable material, and shall be kept in clean condition. The sleeves shall not reach below the elbow.
- (12) 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.

- (13) 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.
- (14) Licensees shall notify the Township Clerk of any change of name or address of their home or business.
- (15) 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.
- (16) The private parts of patrons must be covered when in the presence of a massagist or instructor. Any contact with a patron's genital area is prohibited.
- (17) No person licensed as a massagist shall massage or treat any person under the age of seventeen (17) upon the licensed premises except upon written order by a licensed physician, osteopath or registered physical therapist, such order being dated and in the possession of the massagist giving the massage or treatment. Provided, if the person under the age of seventeen (17) is accompanied by a parent or legal guardian during the massage or treatment, this provision shall not apply.

9. Allowing Violating of Premises Use. 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.

10. Revocation of Permit. A violation of any section of this Ordinance may result in revocation of any or all permits to operate in accordance with this Ordinance and any other Ordinances of the Township.

11. Penalties. Any person violating, or neglecting or refusing to comply with any of the provisions of this Ordinance, shall be punished by imposition of a fine, or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by imposition of both fine and imprisonment within the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense.

Further, the Township, through its proper officials, may, in a court of competent jurisdiction, seek an Injunctive Order in connection with any violation of the provisions of this Ordinance and to apply to a court of appropriate jurisdiction for such other relief as is deemed necessary to enforce the provisions of this Ordinance. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

12. Separability. If any section, subsection, 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 portion of this Ordinance, and such holdings shall not affect the validity of the remaining portions of this Ordinance.

13. When Ordinance Becomes Effective. It is deemed that this Ordinance is necessary to protect the health, welfare, safety, and

morals of the inhabitants of the Township, and must be made effective at the earliest possible date, and accordingly this Ordinance shall be effective upon the date of publication thereof.

This Ordinance adopted this 27 day of February, 1986.

James Totten  
JAMES TOTTEN  
Birch Run Township Supervisor

Marcia Strong  
MARCIA STRONG  
Birch Run Township Clerk

James Totten, Supervisor  
Marcia Strong, Clerk  
Edgar Scharrer, Treasurer  
James Dorr, Trustee  
Alvin Block, Trustee

Aye	Nay	Not Voting
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This Ordinance published in the Bridgport Birch Run Weekly News on the 4 day of March, 1986.

I, MARCIA STRONG, Birch Run Township Clerk, do hereby certify that the foregoing is an Ordinance adopted by the Township of Birch Run, on the 27 day of February, 1986.

Marcia Strong  
MARCIA STRONG  
Birch Run Township Clerk

NOTICE OF ENACTMENT OF ORDINANCESUMMARY OF ORDINANCE:

PLEASE TAKE NOTICE that the Township of Birch Run did on the 27 day of February, 1986, enact Ordinance No. 86-2. This Ordinance pertains to massage and massage parlors, including licensing, requirement of permits, application for permits and the contents thereof, regulations, inspections, and with the provision for penalties, in connection with the violation of the provisions of the Ordinance, all matters set forth in the Ordinance pertaining to the location, establishment, and operation of "massage and massage parlors". The Ordinance sets forth certain definitions, certain exemptions of acts under the Ordinance, sets forth that certain permits are required, and makes provisions for application and investigation fees, sets forth the contents of the application for a permit or license, permit procedures, inspections of the premises, and regulations pertaining to those who work in or who operate such a business or use, penalties, including revocation of permits and penalties for the allowance of premises to be used in violation of the provisions of the Ordinance.

WHERE COPY OF ORDINANCE CAN BE ACQUIRED OR INSPECTED:

A true copy of the Ordinance can be inspected or obtained at the office of the Township Clerk, at the Birch Run Governmental Center, 8411 Main Street, Birch Run, Michigan 48415.

PENALTY:

The criminal penalty provided in said Ordinance does not exceed the penalty imposed by a general law for a misdemeanor; further, civil penalties for the violation of the Ordinance are provided, as well as provisions for injunctive relief, and relief by way of Court orders.

EFFECTIVE DATE:

This Ordinance shall be effective immediately upon publication, it having been determined by the Township Board that it is necessary to protect the health, welfare, safety, and morals of the inhabitants of the Township, and must be made effective at the earliest possible date.

INCONSISTENT ORDINANCE:

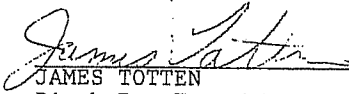
All other Ordinances of the Township of Birch Run inconsistent with the provisions of this Ordinance, to the extent of such inconsistency, are superceded by this Ordinance.

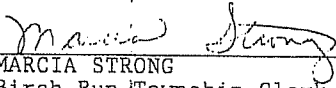
SEPARABILITY:

If any section, subsection, clause, phrase or portion of the 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 portion of this Ordinance, and such holdings shall not affect the validity of the remaining portions of the Ordinance.



We, JAMES TOTTEN, Supervisor, and MARCIA STRONG, Clerk,  
do hereby certify that the foregoing is a summary of Ordinance  
No. 86- 2-, duly enacted by the Birch Run Township Board, on the  
27 day of February, 1986.

  
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JAMES TOTTEN  
Birch Run Township Supervisor

  
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MARCIA STRONG  
Birch Run Township Clerk

This Ordinance given publication as provided by law in the  
Bridgport Birch Run Weekly News, on March 4, 1986.