TOWNSHIP OF DENVILLE MUNICIPAL COUNCIL
WORKSHOP MEETING
January 10, 2017, 7:30 P.M.

- Salute to the Flag
- Compliance with Open Public Meetings Act
- Roll Call:

Council Members:
___ Gabel  ____ Witte  ____ Kuser
___ Lyden  ____ Fitzpatrick  ____ Murphy
___ Golinski, Council President

In Attendance:
___ Mayor Andes  ____ Administrator Ward
___ Township Attorney Jansen  ____ Other: __________

Public Portion (Please limit comments to a maximum of three (3) minutes)

PRESENTATIONS & DISCUSSIONS

PROPOSED ORDINANCE
Regulating Massage and Bodywork Establishments

DISCUSSION FOR PROPOSED ORDINANCE
Criminal Background Checks
Fire and First Aid Department Members
Fire Chief Jason Lezcano

Motion to Adjourn
AN ORDINANCE AMENDING CHAPTER IV, GENERAL LICENSING, OF THE REVISED ORDINANCES OF THE TOWNSHIP OF DENVILLE, NEW JERSEY, TO AMEND CHAPTER IV, SECTION 4-13, MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS AND CHAPTER IIA, FEES, RATES AND CHARGES

WHEREAS, the Township of Denville has a compelling interest in the licensing of massage, bodywork and somatic therapy establishments so as to ensure that such establishments are being operated as legitimate business enterprises and are not engaged in criminal activity; and

WHEREAS, the Township also has a compelling interest in the regulation of such establishments so as to ensure that they meet certain minimum health standards associated with such businesses; and

WHEREAS, this Ordinance is being adopted in order to preserve the public health, safety and general welfare of the residents of the Township of Denville.

NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

SECTION 1. Chapter IV, General Licensing, of the General Ordinances of the Township of Denville, Section 4-13 entitled "Massage, Body Work and Somatic Therapy Establishments" is hereby amended in its entirety to read as follows:

"4-13. MASSAGE AND BODYWORK THERAPY ESTABLISHMENTS

4-13.1 Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:


Massage and bodywork therapies or massage and bodywork shall mean 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 applications may include, but are not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, explaining and describing myofacial movement, self-care and stress management.
as it relates to massage and bodywork therapies. Massage, and bodywork therapy practices are designed to affect the soft tissue of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment or disability.

**Massage and bodywork therapist** shall mean any person licensed pursuant to the provisions of the Act.

**Massage, and bodywork therapy establishment** shall mean any establishment wherein massage, and bodywork therapies are administered or are permitted to be administered, when such therapies are administered for any form of consideration.

**Sexual contact** shall mean the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by one’s own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the one’s body upon a part of the client’s body, sexual penetration, or the insertion or imposition of any object or any part of an employee’s or client’s body into or near the genital, anal or other opening of the other person’s body. “Sexual contact” does not include the touching of a client’s body which is necessary during the performance of a generally accepted and recognized massage and bodywork therapy procedure.

**State Board** shall mean the New Jersey Board of Massage and Bodywork Therapy.

### 4-13.2 Permits Required.

(a) **Massage and Bodywork Therapy Establishment Permit Required.** No person, firm or corporation shall operate any establishment or utilize any premises in the Township of Denville as or for a massage and/or bodywork therapy establishment unless or until such establishment is registered with the New Jersey Board of Massage and Bodywork Therapy pursuant to N.J.S.A. 45:11-76 and there has first been obtained a permit for such establishment or premises from the Township of Denville Division of Health in accordance with the terms and provisions of this ordinance. If the applicant is in the process of obtaining or renewing a registration from the State Board, he/she may submit other evidence from the State Board that an application for registration has been made, provided that the applicant shall submit a copy of the registration once it has been issued by the State Board.

(b) **Massage and Bodywork Therapist’s License Required.** No person shall practice massage or bodywork therapies as a massage and/or bodywork therapist or otherwise unless he or she has a valid massage and bodywork therapist’s license issued to him or her by the Board of Massage and Bodywork Therapy pursuant to N.J.S.A. 45:11-53 et seq. and N.J.A.C. 13:37A-1.1 et seq., as same may be amended and supplemented from time to time.

(c) **Establishment Permits shall be issued for a term of one year expiring March 31 and must be renewed annually by April 1.** All establishments in existence as of the effective date of this ordinance must submit an application for a permit by April 1, 2017.
(d) Application and Inspection Fees for Establishment Permits shall be as set forth in Chapter 11A, Fees.

4-13.3 Application for Massage and Bodywork Therapy Establishment Permit; Requirements.

Any person desiring a Massage and Bodywork Therapy Establishment Permit shall file a written application with the Division of Health upon a form to be furnished by the Health Officer. The application form for each initial permit and subsequent renewal thereof shall contain the following information:

(a) The type of ownership of the business i.e., whether individual, partnership, corporation, limited liability corporation, limited liability partnership or otherwise.

(b) The trade name, style and designation under which the business is to be conducted.

(c) The business address, email address and all telephone numbers, including cell phone numbers and facsimile, where business is to be conducted.

(d) A complete list of the names and residence addresses of all managers or other persons principally in charge of the operation of the business, which list shall be kept current in the establishment.

(e) A sworn notarized statement indicating that all massage and bodywork therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment have been issued a license by the New Jersey Board of Massage and Bodywork Therapy and a copy of the license for each such therapist currently employed, as well as the residence address for each such therapist. Within thirty (30) days of the hiring of each additional massage and bodywork therapist, a copy of each such therapist's license, as well as the therapist's residence address shall be provided to the Division of Health.

(f) The following personal information concerning the applicant, if a sole proprietorship, the individual; if a corporation, each stockholder holding more than 10% of the stock of the corporation, each officer and each director; if a partnership or limited liability corporation or limited liability partnership, the members or partners, including limited partners; and, concerning the manager or other person principally in charge of the operation of the business; shall be provided:

(1) The name, including nicknames and aliases, complete residence address and residence telephone number.

(2) The two previous residential and business addresses immediately prior to the present address of the applicant.

(3) Copy of current driver's license or other government issued ID.

(4) Height, weight, sex, color of hair and eyes.
The Division of Health, upon receiving an application for a massage and bodywork therapy establishment permit, shall make or cause to be made an inspection of the premises to be licensed to ensure compliance with the sanitary and operational requirements set forth in this ordinance and all other applicable Township and State of New Jersey regulations. In addition, the application shall be referred to the Construction Official, Fire Prevention Official, Police Chief, Zoning Official and any other pertinent Township Official who shall inspect the premises proposed to be operated as such an establishment and shall make written recommendations to the Health Officer concerning compliance with the codes that they administer.

(5) Three (3) front-face portrait photographs taken within thirty (30) days of the date of the application and at least two by two (2 x 2) inches in size. The full legal name and any nickname or alias of the individual in the photograph shall be printed on the rear side of each photograph.

(6) The massage therapy or similar business history and experience, including, but not limited to, the two previous business and residential addresses and telephone numbers immediately prior to the date of the application and whether or not such person has previously operated in this or another municipality or state under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefor and the business activities or occupations subsequent to such action or denial, suspension or revocation.

(7) All disorderly persons and criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted together with details of the offense for the arrest or conviction and the circumstances thereof. A Massage and Bodywork Therapy Establishment permit may be denied to any person who has been convicted of a crime or other offense enumerated in Section 4-13.9 of this ordinance.

(h) All applications shall include a scale drawing of the space proposed to be used for massage and bodywork therapy, including a floor plan, building layout and diagram as well as a copy of the business license, zoning permit and/or certificate of occupancy, as applicable.

(i) A copy of a current New Jersey Massage and Bodywork Employer Registration issued by the New Jersey Board of Massage and Body Work Therapy. If the applicant is in the process of obtaining or renewing a registration, he/she may submit other evidence from the State Board that an application for registration has been made, provided that the applicant shall submit a copy of the registration once it has been issued by the State Board.

(j) Copy of the signed lease for the property location where the proposed establishment will be in operation. The applicant must be listed as the lessee on the lease.

4-13.4 Building Requirements; Inspections.

The Division of Health, upon receiving an application for a massage and bodywork therapy establishment permit, shall make or cause to be made an inspection of the premises to be licensed to ensure compliance with the sanitary and operational requirements set forth in this ordinance and all other applicable Township and State of New Jersey regulations. In addition, the application shall be referred to the Construction Official, Fire Prevention Official, Police Chief, Zoning Official and any other pertinent Township Official who shall inspect the premises proposed to be operated as such an establishment and shall make written recommendations to the Health Officer concerning compliance with the codes that they administer.
Upon completion of the inspection of the premises to be permitted, the Health Officer or his/her designee shall prepare a report detailing all inspection findings, including violations and required corrective measures to be taken prior to the issuance of a permit under this ordinance. A copy of the report shall be provided to the applicant. An applicant that fails to take all required corrective measures detailed in an inspection report issued by the Health Officer or his/her designee shall be subject to the penalties set forth in Section 4-13.14 and/or denial of the permit.

No massage and bodywork therapy establishment shall be issued a permit or be operated, established or maintained in the Township unless an inspection by the Health Officer, Construction Official and Fire Prevention Official reveals that the establishment complies with the minimum requirements of the Building and Health Codes and other applicable regulations for businesses operating in the Township of Denville. Upon the Health Officer's determination that the establishment complies with all sanitary and operational requirements set forth in this ordinance and all other applicable Township and State of New Jersey regulations, the Health Officer shall endorse the application noting approval or disapproval.

In addition, the establishment must comply with each of the following minimum requirements:

(a) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected, and shall be maintained in a sanitary condition and regularly cleaned and disinfected.

(b) Adequate procedures shall be established and observed to provide for the disrobing in private of the patrons to be served at any given time. In the event that male and female patrons are to be served simultaneously and request separate facilities, separate dressing areas and massage room facilities shall be made available,

(c) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.

(d) Adequate hand washing facilities shall be provided at convenient locations as necessary to maintain clean hands and arms of all employees during hours of operation.

(e) The regulations set forth at N.J.A.C. 13:37A-1 et seq. as same may be amended and supplemented from time to time.

4-13.5 Investigating and Fingerprinting of Applicant and Employees.

(a) Unless an applicant for a massage and bodywork therapy establishment permit or renewal thereof can produce proof satisfactory to the Police Chief that a criminal background check was conducted at the time of registration with the New Jersey Board of Massage and Bodywork Therapy pursuant to N.J.S.A. 45:11-76 and N.J.S.A. 45-11-80, all applicants seeking a Bodywork Therapy Establishment permit, renewal or temporary permit under this ordinance shall respond to the Denville Township Police Department with a current driver's license or other...
government issued photo identification. The applicant shall be photographed and
provided with a fingerprint application form to obtain fingerprints from a vendor
licensed by the State of New Jersey. The applicant, at the applicant's expense,
shall respond to the authorized fingerprint vendor's location for a fingerprint check.

(b) When said application for a massage and bodywork therapy establishment permit
is properly filled out, signed by the applicant and has been filed with the Health
Officer with all accompanying information, the application shall be referred by the
Health Officer to the Township Police Department. The Chief of Police or his or
her designee shall investigate the information available as to the good moral
character of the applicant, and shall recommend approval or disapproval of the
application within thirty (30) days. Reasons for a recommendation of disapproval
shall be set forth in writing on the reverse side of the application. In evaluating a
criminal record of an applicant, the Chief of Police must consider whether the
offense relates adversely to the occupation of a massage and bodywork therapist
establishment pursuant to the criteria set forth in N.J.S.A. 2A:168A-2 et seq. The
application shall be returned to the Health Officer who will either issue the permit
or notify the applicant of a denial.

(c) Except for massage and bodywork therapists who have been issued a license by
the New Jersey Board of Massage and Bodywork Therapy and other employees
who have been issued a current license pursuant to the Cosmetology and
Hairstyling Act of 1984, N.J.S.A. 45:5B et seq. or have been issued a current
medical license by the State of New Jersey for those professions set forth in
Section 4-13.13 and have had a criminal history background check as a condition
of the issuance of such license, all employees of a massage and bodywork
establishment that is subject to this ordinance, including paid and non-paid
employees and volunteers operating in the establishment, shall apply for a criminal
history background check in accordance with the procedure set forth in paragraphs
(a) and which background check shall be subject to approval of the Chief of Police
as set forth in paragraph (b) of this Section. The disapproval by the Chief of Police
of the background check of any employee will constitute cause for denial or
revocation of a permit.

(d) Before a prospective employee, as defined in paragraph (c) above, may be
employed by an establishment to which a permit has been issued, such
prospective employee must first apply for a criminal history background check in
accordance with the procedure set forth in paragraph (a) of this Section and submit
proof satisfactory to the Health Officer that they have applied for the criminal
history background check. Any such person shall be employed only on a
probationary basis, not to exceed thirty (30) days until the background check has
been provided to and approved by the Chief of Police or his designee as set forth
in paragraph (b) of this Section and the Health Officer so notified.

4-13.6 Review and Approval of Permit. All permit applications under this
chapter shall be reviewed and approved or denied by the Health Officer. Any permit issued
pursuant to this Ordinance shall be valid only to the sole proprietorship, partnership, limited liability
partnership or company, corporation or any other form of business organization to which the
permit was issued and shall not be transferable to another premises.
Any person, firm, corporation or other entity found to be operating any establishment or utilizing any premises in the Township of Denville as or for a massage and bodywork therapy establishment after having been denied a permit or after failing to renew a permit may be ordered closed by the Health Officer or his/her designee or the Chief of Police or his designee in addition to the general penalties set at Section 3-1 of these Revised General Ordinances.

Permits issued under this section may be suspended by the Health Officer or his/her designee, the Construction Official, the Fire Prevention Official or the Chief of Police or his/her designee, provided that the Health Officer is so notified within 24 hours of the suspension, in accordance with 4-13.7(d), or be revoked or suspended by the Township Council, or by a hearing officer duly appointed by the Township Council, after notice and a hearing, as applicable, for any of the following causes:

1. Fraud, misrepresentation or false statement in the application for the permit.

2. Fraud, misrepresentation or false statement made in the course of carrying on the permitted business in the Township.

3. Conviction of an offense involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution and any offense involving dishonesty.

4. Conducting the permitted business in the Township in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

5. Failure to submit a valid State of New Jersey Massage & Bodywork Employer Registration issued by the New Jersey Board of Massage and Bodywork Therapy.

6. Employing or otherwise permitting persons to perform massage or bodywork therapy in the establishment who are not currently licensed by New Jersey Board of Massage and Bodywork Therapy as massage and bodywork therapists.

7. The owner and/or operator or any employee refuses to permit, hinders, or obstructs, the Health Officer or his/her designee or any duly authorized Police Officer or official to inspect the premises or the operation therein.

A new permit application in accordance with the provisions of Section 4-13.3 must be filed prior to any alterations to a previously permitted establishment.

4-13.7 Cause for Closure; Suspension or Revocation of Permit.

(a) Any person, firm, corporation or other entity found to be operating any establishment or utilizing any premises in the Township of Denville as or for a massage and bodywork therapy establishment after having been denied a permit or after failing to renew a permit may be ordered closed by the Health Officer or his/her designee or the Chief of Police or his designee in addition to the general penalties set at Section 3-1 of these Revised General Ordinances.

(b) Permits issued under this section may be suspended by the Health Officer or his/her designee, the Construction Official, the Fire Prevention Official or the Chief of Police or his/her designee, provided that the Health Officer is so notified within 24 hours of the suspension, in accordance with 4-13.7(d), or be revoked or suspended by the Township Council, or by a hearing officer duly appointed by the Township Council, after notice and a hearing, as applicable, for any of the following causes:

1. Fraud, misrepresentation or false statement in the application for the permit.

2. Fraud, misrepresentation or false statement made in the course of carrying on the permitted business in the Township.

3. Conviction of an offense involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution and any offense involving dishonesty.

4. Conducting the permitted business in the Township in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

5. Failure to submit a valid State of New Jersey Massage & Bodywork Employer Registration issued by the New Jersey Board of Massage and Bodywork Therapy.

6. Employing or otherwise permitting persons to perform massage or bodywork therapy in the establishment who are not currently licensed by New Jersey Board of Massage and Bodywork Therapy as massage and bodywork therapists.

7. The owner and/or operator or any employee refuses to permit, hinders, or obstructs, the Health Officer or his/her designee or any duly authorized Police Officer or official to inspect the premises or the operation therein.
(8) Any violation of this section 4-13.

(c) Notice of the hearing for the revocation of a permit shall be given in writing by the Health Officer setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking, cancelling, or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon such permit by simultaneous regular mail and certified mail, return receipt requested. A hearing for the revocation of a permit shall be held within 10 business days of the date of the Notice.

(d) Such permit may, pending revocation proceedings, be suspended for not more than ten (10) business days (Monday-Friday excluding holidays) by the Health Officer if, in his/her opinion, the conduct of the permittee is detrimental to the health, safety and general welfare of the Township of Denville.

(e) At the hearing before the Township Council, or a hearing officer duly appointed by the Township Council, the permittee shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Township Council, or the hearing officer, the complaint may be dismissed, or if the Township Council, or the hearing officer concludes that the charges have been sustained and substantiated, it may suspend or revoke the permit or deny reinstatement of the permit, as applicable, and stipulate the conditions required for reinstatement of the permit.

(f) If any such permit shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another permit to carry on the same business within the Township, unless the application for such permit shall be approved by the Township Council.

(g) A person, firm, corporation or other entity whose permit has been revoked or suspended shall close the establishment and request all patrons to vacate the premises.

4-13.8 Display of Permit.

The massage and bodywork therapy establishment shall display its state issued registration and the permit issued by the Township as well as the original or duplicate license, in accordance with N.J.A.C. 13:37A-3.4, as same may be amended from time to time, of each and every massage and bodywork therapist employed in the establishment in an open and conspicuous space near the public entrance to the establishment and at eye-level where they may be viewed by all entering the establishment. A 2-inch by 2-inch passport sized color photo of the licensed therapist must be affixed to, in a manner not to obscure, the displayed license of each and every massage and bodywork therapist employed by the establishment. In addition, all therapists on site must have in their possession a valid government issued photo identification.
Every massage and bodywork therapy establishment shall comply with the following:

(a) Every portion of the massage and bodywork therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) The hours of operation for the establishment shall be posted conspicuously and unobstructed where these may be viewed from the outside of the establishment. The following signage shall be posted conspicuously and unobstructed in the reception area where these may be viewed by patrons:

i. Price rates for all services provided by the establishment, provided that price rates may be available in the reception area in pamphlet form in lieu of signage.

ii. A sign reading: "Consumer complaints regarding this establishment may be made by calling the Denville Township Health Department" along with the telephone number for the Denville Health Department. All lettering for the sign shall be a minimum height of two inches (2") and shall contrast in color to the background of the sign.

(c) The public entrance to the establishment and any door leading to areas wherein corridors for rooms where massage and bodywork therapy work areas are located shall be unlocked while the establishment is providing services to clients. Use of remote locking and unlocking systems and/or intercom systems to permit entry into the establishment shall be prohibited.

(d) A landline telephone shall be made available in the establishment. Emergency telephone numbers for EMS, the Township's Police Department, Fire Department, and Health Department along with "911" shall be posted conspicuously and unobstructed from view adjacent to the telephone.

(e) All employees shall be clean and wear clean, non-transparent outer-garments. Facilities for patrons to disrobe in private must be available on the premises or suitable procedures for the privacy of patrons while disrobing must be observed. Doors to such facilities shall open inward and shall be self-closing.

(f) All massage and bodywork therapy establishments shall be provided with clean laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner. Receptacles with lids shall be provided for the depositing of soiled and used linens. Such receptacles shall be kept clean and shall be of non-absorbent and easily-cleanable design. All clean linens shall be stored in such a manner so as to prevent contamination.

(i) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities and surfaces shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam
The massage and bodywork establishment shall conform to and observe all applicable rules, regulations and prohibitions set forth in N.J.A.C. 13:37 A, as same may be amended and supplemented from time to time. Access to a sanitary restroom shall be provided for clients at all times. Client records must be maintained for each and every client who receives services from the massage establishment in accordance with the requirements of NJ.A.C.13:37A-5.2, as same may be amended and supplemented from time to time. Access to these records shall be provided in accordance with the provisions of N.J.A.C. 13:37 A-5.3, as same may be amended and supplemented from time to time.

A written disinfection plan for all linens, towels and reusable instruments used by the establishment must be approved by the Division of Health, kept on site and be available for review by the inspecting official at all times. The establishment must operate in conformance with the approved plan at all times.

No massage establishment shall knowingly serve any patron infected with any fungus or other skin infections, nor shall service be performed on any patron exhibiting skin inflammation or eruptions, provided that a duly licensed physician may certify that a person may be safely provided with a massage or bodywork therapy, prescribing the conditions thereof.

Rooms wherein massage or bodywork therapy is provided shall not have any type of locking device nor shall such rooms be locked while occupied by a client and the therapist. This requirement shall not preclude the licensee from using signage on the exterior side of the door to the room to indicate when said room is occupied by a client and a therapist.

A written disinfection plan for all linens, towels and reusable instruments used by the establishment must be approved by the Division of Health, kept on site and be available for review by the inspecting official at all times. The establishment must operate in conformance with the approved plan at all times.

Client records must be maintained for each and every client who receives services from the massage establishment in accordance with the requirements of NJ.A.C.13:37A-5.2, as same may be amended and supplemented from time to time. Access to these records shall be provided in accordance with the provisions of N.J.A.C. 13:37A-5.3, as same may be amended and supplemented from time to time.

Access to a sanitary restroom shall be provided for clients at all times.

The massage and bodywork establishment shall conform to and observe all applicable rules, regulations and prohibitions set forth in N.J.A.C. 13:37A, as same may be amended and supplemented from time to time.
4-13.10 Inspections.

The Health Officer, the Police Chief, the Fire Prevention Officer and/or the Construction Official or their qualified designees shall, from time to time, at least once a year, make an inspection of each massage and bodywork therapy establishment granted a permit under the provisions of this section for the purpose of determining whether there is compliance with the provisions of this section and/or applicable rules, regulations and laws. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

4-13.11 Sleeping Quarters.

No part of any quarters of any massage and bodywork therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage and bodywork therapy establishment except for limited periods of time incidental to and directly related to a massage and bodywork therapy treatment or bath. No beds or mattresses shall be permitted in the establishment. This provision shall not preclude the location of massage, and bodywork therapy establishments in separate quarters of a building housing a hotel or other separate businesses or clubs.

4-13.12 Prohibited Acts.

(a) No owner or manager of a massage and bodywork therapy establishment shall allow, permit or suffer in his or her establishment any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material; laws which relate to the commission of sodomy, adultery and proscribing fornication, nor shall any owner or manager allow, permit or suffer in his or her establishment any activity or behavior which violates this section.

(b) Any conviction of any employee of a massage and bodywork therapy establishment of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such establishment, it being specifically declared that following such conviction of an employee, the owner or manager of the establishment may be prosecuted as an accessory to such violation and the permits which have been issued shall be automatically revoked.

(c) It shall be unlawful for any person knowingly, in a massage and bodywork therapy establishment to engage in sexual misconduct as set forth in N.J.A.C. 13:37A-3.5, as same may be amended and supplemented from time to time.

(d) The following activities are prohibited in the licensed establishment:

i. Table showers

ii. Ear Candling
iii. Any procedure that involves ear picks, ear scoops or ear spoons.

iv. Any activities or therapies that utilize any form of terrestrial or aquatic animals during therapy including but not limited to fish foot spas.

v. Any activities or therapies that utilize animal waste or products that contain animal waste as an ingredient.

vi. Colon cleansing.

(e) Pest control or sprays are prohibited unless performed by NJDEP licensed pest control contractors.

(f) On premises laundering is restricted to only those linens and towels used within the operation.

(g) No bulk food storage or meal preparation is permitted on the premises.

(h) No person under the age of 18 years shall be served unless accompanied by a parent or guardian.

(i) No alcoholic beverages shall be stored or consumed on the premises.

4-13.13 Plans required prior to construction, alterations, or renovation; approval.

(a) Prior to the initial construction and or any subsequent alteration or renovation of an establishment licensed under this article, a floor plan detailing the proposed layout of all equipment and areas shall be submitted to the Denville Health Officer by the applicant. Such plans shall be drawn to scale.

(b) Upon receipt of such plans, the Denville Health Officer shall review the plan for compliance with this Article within sixty (60) days of receipt.

(c) The applicant shall pay the plan review fees as set forth in Chapter II A to the Denville Health Department simultaneously with the submission of the plans to be reviewed.

(d) No construction, alterations, or renovations shall occur until approval of said plans has been provided by Denville's Health Officer.

(e) No construction, alterations, or renovations shall occur until the said plans have also been approved by the Township Zoning Officer, Construction Official or other departments under all applicable Township Ordinances, and the Planning Board or Board of Adjustment, if required.
4-13.14 Exceptions.

The provisions of this ordinance shall not apply to massage and bodywork therapies given:

(a) In the office of a licensed physician, chiropractor or physical therapist; or,

(b) By a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or,

(c) By any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or,

(d) By a licensed barber, esthetician or cosmetologist/hair stylist limited to the areas of the face, neck, scalp or upper part of the body, manicurists or pedicurists, as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B et seq.; or

(e) By a reflexologist, certified accredited by an established reflexology certification board, limited to the areas of the hands, ankles and feet; or

(f) As set forth in N.J.S.A. 45:11-68; or

(g) In a public venue in connection with a public event, such as a street fair or festival or in a private corporate event, where the massage is conducted in public and not in a private setting.

4-13.15 Violations and Penalties.

In addition to the revocation or suspension of the permit granted under this section, any person who violates any provision of this ordinance shall, upon conviction hereof, be subject to the penalties provided in Section 3-1 of these Revised General Ordinances.

4-13.16 Enforcement Agent.

The Health Officer and his/her qualified designee and/or any Police Officer of the Township shall be the enforcement agents for purposes of any permit issued pursuant to or required by this Ordinance.

4-13.17 Conformance with regulations; more restrictive laws control.

A. No person, firm, corporation or other entity shall operate any establishments or utilize any premises located in the Township of Denville as or for a massage and bodywork therapy establishment without complying with the requirements of this ordinance, as well as the regulations of the State of New Jersey, including N.J.S.A. 45:11-53 through N.J.S.A. 45:11-79 and N.J.A.C. 13:37A-1.1 et seq., as the same may be amended and supplemented from time to time.

B. In all allied matters that are regulated by the laws of the State of New Jersey, the provisions of state law shall control where the requirements of state law are more
stringent or restrictive than the regulations set forth in this Article. This Article shall control in all cases where the state law requirements are less stringent or less restrictive than the regulations herein contained.”

SECTION 2. Chapter IIA, Fees, Rates and Charges, Section 2A-6, Health, is hereby amended and supplemented by the addition of the following fees:

“Massage and Bodywork Therapy Establishments

<table>
<thead>
<tr>
<th>Fee</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application fee</td>
<td>$250.00</td>
</tr>
<tr>
<td>Late fee</td>
<td>$50.00</td>
</tr>
<tr>
<td>Re-inspection fee, per re-inspection</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

Fee for Health’s Officer’s initial review of a plan: $100.00
Fee for Health Officer’s review of any subsequent revised plan: $50.00”

SECTION 3. This ordinance may be renumbered for purposes of codification.

SECTION 4. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

ATTEST: 

MAYOR THOMAS W. ANDES
TOWNSHIP OF DENVILLE

APPROVED:

KATHRYN BOWDITCH-LEON, RMC
MUNICIPAL CLERK

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on ____________, 2016

Kathryn Bowditch-Leon, RMC
Municipal Clerk
Chapter 9. Criminal History Background Checks

Article I. Fire Department and First Aid Squad

§ 9-1. Criminal history checks required for volunteer positions.

Pre-service criminal history checks will be required for all applicants for volunteer positions with the Fire Department and First Aid Squad.


[Ammended 5-18-2009 by Ord. No. 09-09]

A. Applicants 18 years of age or older for the volunteer positions set forth above, who apply for volunteer positions after the effective date of this article, must consent to a criminal history check to be conducted through the State Bureau of Investigation. The Township shall cover the cost of the criminal history check. Such applicants shall fully complete “Form D” (available at the New Jersey State Police Internet website, www.njsp.org, or the Police Department) and follow the instructions for obtaining a criminal history background check, which includes making an appointment to be fingerprinted by the state contract vendor. Applicants who fail to obtain a criminal history background check or otherwise refuse to consent to or cooperate in securing a criminal history check shall not be considered for appointment.

B. Applicants less than 18 years of age must complete “Form C” available at the New Jersey State Police Internet website, www.njsp.org, or from the Washington Township Police Department and follow the instructions for obtaining a criminal history background check, which includes making an appointment to be fingerprinted by the state contract vendor. The applicant shall pay the fee required by the Division of State Police (which will be refunded by the Township if the applicant is appointed). Upon receipt of the report, the applicant must make a copy available to the Chief of Police, who will evaluate the report in accordance with the criteria set forth in § 9-3. Applicants who fail to submit the required report to the Chief of Police or otherwise refuse to secure a criminal history check shall not be considered for appointment.


The Chief of Police of the Township of Washington shall receive and review the results of the criminal history checks for the volunteer positions set forth above. The Chief of Police shall recommend either approval or disapproval of each applicant for a volunteer position to the applicable Fire Company's Admissions and Suspensions Committee or the First Aid Squad’s Membership Committee within 30 days. Except in the case of an applicant under the age of 18 years, the Chief of Police shall provide a written explanation for each recommendation of disapproval in writing to the applicable Admissions and Suspensions Committee or Membership Committee and shall forward a copy to the applicant. For applicants under the age of 18 years, the Chief shall not
provide an explanation for a recommendation of disapproval to the applicable Admissions and Suspensions Committee or Membership Committee but shall notify the applicant of the recommendation. When reviewing a record with one or more convictions, the Chief of Police shall consider the following:

A. The nature and responsibility of the applicant's prospective position;
B. The nature and seriousness of the offense;
C. The circumstances under which the offense occurred;
D. The date of the offense;
E. The age of the applicant when the offense was committed;
F. Whether the offense was repeated;
G. Social conditions which may have contributed to the offense; and
H. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational education, successful participation in correctional work-release programs, or the recommendation of persons who have supervised the applicant.

§ 9-4. Appeal.

An applicant 18 years of age or older receiving a recommendation of disapproval from the Chief of Police may appeal by submitting a letter explaining the basis for his or her appeal to the applicable Fire Company's Admissions and Suspensions Committee or the First Aid Squad's Membership Committee. An applicant less than 18 years of age receiving a recommendation of disapproval from the Chief of Police may appeal by submitting a letter explaining the basis for his or her appeal to the Chief of Police. Such an appeal must be made within 20 days of the applicant's receipt of written notice of the recommendation of disapproval. If the applicant challenges the accuracy of the conviction information obtained by the criminal history check, he or she shall be afforded a reasonable period of time to attempt to correct the record. If the applicant merely challenges the propriety of the Chief of Police's recommendation, the applicable Admissions and Suspensions Committee or Membership Committee, or the Chief of Police in the case of an applicant less than 18 years of age, shall promptly review the appeal and shall notify the applicant within 30 days of its determination. If no action is taken by the applicable Committee or the Chief within 30 days of such an appeal, the recommendation of disapproval from the Chief of Police shall be deemed affirmed.