

**MEETING TO BE  
LIVE STREAMED AT**

<https://www.youtube.com/channel/UC8i0yw7Ihozymgo4N68jJdg/live>

**AGENDA FOR THE REGULAR BUSINESS MEETING  
OF THE TOWNSHIP COUNCIL OF WEST WINDSOR TOWNSHIP  
WEST WINDSOR SENIOR CENTER  
271 CLARKSVILLE ROAD  
TO THE EXTENT KNOWN**

**October 11, 2022**

**VIA Zoom Video Communications**

7:00 P.M.

1. Call to Order
2. Roll Call
3. Statement of Adequate Notice - January 7, 2022 to The Times and the Princeton Packet and posted on the Township web-site. All Council meetings are open to the public with access via Zoom for those who wish to attend virtually. Please see Township web-site for further details.
4. Salute to the Flag
5. Ceremonial Matters and/or Topics for Priority Consideration
6. Public Comment: (30 minutes comment period; 3-minute limit per person)
7. Administration Comments
8. Council Member Comments
9. Chair/Clerk Comments
10. Public Hearings

11. Consent Agenda

A. Resolutions

2022-R219 Approving the Request for a Permit from Leukemia & Lymphoma Society for a Public Fireworks Display on October 29, 2022 (No rain date)

B. Minutes

September 12, 2022 - Business Session - as amended

C. Bills & Claims

12. Items Removed from Consent Agenda

13. Recommendations from Administration and Council/Clerk

2022-R220 Authorizing the Insertion of a Special Item of Revenue Into the 2022 Municipal Budget from the New Jersey Division of Criminal Justice Body Armor Fund - \$2,279.34

2022-R221 Authorizing the Mayor and Clerk to Execute a Contract with Standard Pipe Services, LLC for the Project Known as D&R Canal Interceptor 48-Inch Diameter Sewer Spot Repairs and Manhole Rehabilitation Project - \$862,900.00

2022-R222 Authorizing the Mayor and Clerk to Execute a Contract with MNC Concrete, LLC for the Project Known as TV 2020 Dey Forest Pedestrian Improvements at Carlton Place - \$247,128.80

2022-R223 Authorizing the Mayor and Clerk to Execute a Contract with Harshi Construction, LLC for the 2022 Sidewalk Repair Program - \$133,500.00

2022-R224 Authorizing the Mayor and Clerk to Execute a Lease Agreement Extension with the U.S. Postal Service for 331 North Post Road

2022-R225 Approving the Proposed Correction Action Plan as Requested by the New Jersey Office of State Comptroller Report

14. Introduction of Ordinances

2022-20 AN ORDINANCE TO AMEND AND SUPPLEMENT  
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)  
AN ORDINANCE ADDING CHAPTER 123 "PUBLIC ACCESS TO  
MUNICIPAL FACILITIES" OF THE TOWNSHIP OF WEST  
WINDSOR PROHIBTING PUBLIC ACCESS TO CERTAIN  
MUNICIPALLY-OWNED, LEASED, OR OPERATED AREAS OR  
CONTROLLED PROPERTY

PUBLIC HEARING: October 25, 2022

2022-21 AN ORDINANCE AMENDING AND SUPPLEMENTING PART II  
"GENERAL LEGISLATION" OF THE REVISED GENERAL  
ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR, NEW  
JERSEY (1999) CHAPTER 109 "MASSAGE, BODYWORK AND  
SOMATIC THERAPY ESTABLISHMENTS", IN ORDER TO  
PROVIDE REGISTRATION REQUIREMENTS FOR SAID  
ESTABLISHMENTS

PUBLIC HEARING: October 25, 2022

15. Additional Public Comment (three-minute limit per person)

16. Council Reports/Discussion/New Business

17. Administration Updates

18. Closed Session

19. Adjournment

RESOLUTION

- WHEREAS, Leukemia & Lymphoma Society desires to conduct a public firework display located at Mercer County Park on October 29, 2022, with no rain date; and
- WHEREAS, said fireworks display shall be conducted by International Fireworks Mfg. Co, a U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms licensed Importer of Fireworks, license number 8PA-011-24-4F-01294; Exp date 06/01/2024; and
- WHEREAS, the New Jersey Uniform Fire Code N.J.A.C. 5:70-3, 5601.2.4.3 requires that the governing body approve said fireworks display by resolution prior to granting of a permit by the Township Fire Marshal; and
- WHEREAS, the Township Fire Marshal has designated the fireworks display must commence by 9:30 pm and conclude no later than 10:00 pm; and
- WHEREAS, the minimum insurance coverage required by N.J.A.C. 5:70, 5601.2.4.2 is \$500,000 and International Fireworks Mfg. Co carries \$4,000,000 insurance coverage; and
- WHEREAS, the Fire Marshal has communicated with the Chief of Police, and the Fire Chief of West Windsor Fire Company who will provide police, and fire protection for said fireworks display and have given their approval; and
- WHEREAS, the West Windsor Township Division of Fire and Emergency Services will provide emergency medical services; and
- WHEREAS, the Fire Marshal has reviewed the application for permit, insurance requirements and other applicable regulations and has found all to be in order; and
- WHEREAS, the Fire Marshal recommends the approval of said resolution.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Windsor that this resolution is adopted and that a permit may be granted by the West Windsor Township Fire Marshal, upon his approval, for a fireworks display.

Adopted: October 11, 2022

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 11th day of October 2022.

---

Gay M. Huber  
Township Clerk  
West Windsor Township

RESOLUTION

RESOLUTION PROVIDING FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE IN THE BUDGET OF THE TOWNSHIP OF WEST WINDSOR PURSUANT TO N.J.S.A. 40A:4-87 (CHAPTER 159, P.L. 1948)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any such item of revenue in the budget of the county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Windsor, in the County of Mercer, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2022 which item is now available as a revenue from monies held pursuant to the provisions of statute.

Body Armor Fund - 104611                      \$2,279.34

BE IT FURTHER RESOLVED a like sum of \$2,279.34 and the same is hereby appropriated under the following:

Body Armor Fund – 10668522                      \$2,279.34

Adopted:            October 11, 2022

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 11th day of October 2022.

\_\_\_\_\_  
Gay M. Huber  
Township Clerk  
West Windsor Township

## RESOLUTION

WHEREAS, the Township of West Windsor has determined the need to make repairs to the existing 48-inch diameter sanitary interceptor sewer line and appurtenant manholes between Route 1 and Alexander Road; and

WHEREAS, the project documents provided two different methods of pipe joint repair, which are equivalent techniques but have different costs, with the base bid being cured-in-place pipe spot repairs and the alternate being epoxy coating pipe spot repairs; and

WHEREAS, said project was put out to public bid and the following bids were received and opened on Friday, September 16, 2022; and

WHEREAS, the Township has received three (3) bids from the following bidders:

<u>No.</u>	<u>Company</u>	<u>Base Bid</u>	<u>Alternate Bid</u>
1	Standard Pipe Services, LLC	\$1,064,670.00	\$ 862,900.00
2	PIM Corporation	No Bid	\$1,249,945.00
3	Metra Industries, Inc.	No Bid	\$1,859,100.00

WHEREAS, the Township Engineering staff have reviewed the bids and have determined the lowest responsible and responsive bid was submitted by Standard Pipe Services, LLC; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

Sanitary/Storm Sewer Improvements	405-2017-21 027	\$ 30,891.87
Sanitary/Storm Sewer Improvements	405-2018-15 028	\$ 250,000.00
Sanitary/Storm Sewer Improvements	405-2019-18 029	\$ 250,000.00
Sanitary/Storm Sewer Improvements	405-2020-14 032	\$ 250,000.00
<u>Sanitary/Storm Sewer Improvements</u>	<u>405-2021-14 030</u>	<u>\$ 82,008.13</u>
Account Title	Account Number	Amount

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the contract for the D&R Canal Interceptor 48-Inch Diameter Sewer Spot Repairs and Manhole Rehabilitation Project alternate bid be awarded to Standard Pipe Services, LLC, 567 Walther Road, Newark, Delaware 19702, and the Mayor and Clerk are authorized to execute said contract.

Adopted: October 11, 2022

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 11<sup>th</sup> day of October 2022.

\_\_\_\_\_  
 Gay M. Huber  
 Township Clerk  
 West Windsor Township

## RESOLUTION

WHEREAS, the Township of West Windsor has determined the need to construct improvements to the pedestrian route between Berkshire Drive and Cranbury Road along a portion of Carlton Place; and

WHEREAS, this pedestrian route is within one-half mile of the Princeton Junction Train Station, a New Jersey designated Transit Village and this work has been awarded a New Jersey Department of Transportation Transit Village grant of \$40,000.00; and

WHEREAS, said project was put out to public bid and the following bids were received and opened on Friday, July 29, 2022; and

WHEREAS, the Township has received four (4) bids from the following bidders:

<u>No.</u>	<u>Company</u>	<u>Bid Value</u>
1	MNC Concrete, LLC	\$247,128.80
2	V+K Construction, Inc.	\$293,000.00
3	T Fiotakis Construction, LLC	\$341,209.00
4	Abhzeen Design, Inc.	\$409,222.50

(chart sorted by total bid value)

WHEREAS, the Township Engineering staff have reviewed the bids and have determined the lowest responsible and responsive bid was submitted by MNC Concrete, LLC; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

Traffic Safety Improvement Hazard Mitigation	405-2020-14 015	\$ 70,000.00
Traffic Safety Improvement Hazard Mitigation	405-2018-15 014	\$ 5,000.00
Bike & Pedestrian Improvements (NJDOT Grant)	405-2013-09 004	\$ 40,000.00
<u>Bike &amp; Pedestrian Improvements</u>	<u>405-2020-14 010</u>	<u>\$ 132,128.80</u>
Account Title	Account Number	Amount

NOW, THEREFORE, BE IT RESOLVED by the Township of West Windsor that the contract for the TV 2020 Dey Forest Pedestrian Improvements at Carlton Place be awarded to MNC Concrete, LLC, Inc., 2 Beach Haven Way, Waretown, NJ 08758, and the Mayor and Clerk are hereby authorized to execute said contract.

Adopted: October 11, 2022

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 11<sup>th</sup> day of October 2022.

---

Gay M. Huber  
Township Clerk  
West Windsor Township

## RESOLUTION

WHEREAS, the Township of West Windsor has determined the need for repair of sidewalks throughout the Township due to lifting associated with street tree roots; and

WHEREAS, the Township of West Windsor has determined proper repair of sidewalks will prevent unwarranted removal of street trees and/or potentially problematic and unsafe cutting of street tree roots; and

WHEREAS, said project was put out to public bid and the bids were received and opened on September 29, 2022; and

WHEREAS, the Township has received bids from the following bidders:

<u>Company</u>	<u>Total Base Bid &amp; Alternates</u>
Harshi Construction	\$ 133,500.00
MNC Concrete	\$ 150,000.00
T. Fiotakis Const.	\$ 162,000.00
A. Taktoon Conc.	\$ 216,000.00
Diamond Const.	\$ 195,000.00
Dumor Const.	\$ 359,200.00

WHEREAS, the Township Engineering staff have reviewed the bids and determined the lowest responsible and responsive bid was submitted by Harshi Construction LLC; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation account:

<u>Account Title</u>	<u>Account Number</u>	<u>Amount</u>
Bicycle and Pedestrian Improvements	405-2022-08-011	\$ 133,500.00

NOW, THEREFORE, BE IT RESOLVED by the Township of West Windsor that the contract for the 2022 Sidewalk Repair Program be awarded to Harshi Construction LLC., 1 Wren Court, Edison, NJ 08820, and the Mayor and Clerk are hereby authorized to execute said contract.

Adopted: October 11, 2022

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 11<sup>th</sup> day of October 2022.

---

Gay M. Huber  
Township Clerk  
West Windsor Township



TOWNSHIP OF WEST WINDSOR  
MERCER COUNTY, NEW JERSEY

A RESOLUTION TO ACCEPT THE FINAL RENEWAL OPTION UNDER THE CURRENT  
LEASE AGREEMENT WITH THE UNITED STATES POSTAL SERVICE (U.S.P.S.) AND  
THE TOWNSHIP OF WEST WINDSOR FOR THE LAND COMMONLY KNOWN AS 331  
NORTH POST ROAD, BLOCK 10, LOT 11 (A.K.A 100 MUNICIPAL DRIVE) WEST  
WINDSOR, NEW JERSEY

- WHEREAS, the Township Council of the Township of West Windsor originally authorized the execution of a Lease Agreement (“Lease” or “Agreement”) with the United States Postal Service (“U.S.P.S.”), an independent agency of the United States federal government, on May 9, 1996, via Resolution No. 96-R120; and
- WHEREAS, the Property (“Property”) owned by the Township and leased to the U.S.P.S. under the Agreement is located at Block 10, Lot 11 on the official Tax Map of West Windsor Township, and is commonly known as 331 North Post Road (a.k.a. 100 Municipal Drive); and
- WHEREAS, subsequent to executing the initial Lease with the U.S.P.S. in 1996, the Township Council has since authorized two (2) amendments to the Lease: the first renewal beginning February 1, 2008 and ending January 31, 2013, and the second renewal beginning January 31, 2013 and ending January 31, 2018; and
- WHEREAS, at their December 10, 2012, Business Meeting Township Council adopted Ordinance 2012-20 to authorize an amendment to the lease agreement to permit the U.S.P.S. to continue to operate a post office at the 331 North Post Road location in reduced space and at a reduced rental payment; and
- WHEREAS, at their October 27, 2017 Business Meeting Township Council authorized a third amendment to the Lease a third renewal beginning February 1, 2018 and ending January 31, 2023; and
- WHEREAS, all remaining terms of the original Lease Agreement, attached hereto as Exhibit B and incorporated herein by reference, shall remain unchanged; and
- WHEREAS, the Township is empowered to lease municipally-owned property to the United States and its subsidiaries pursuant to N.J.S.A. 40:60-25.51, so long as the governing body determines same to be “desirable for the public convenience and welfare.”

NOW, THEREFORE, BE IT RESOLVED the Township Council of the Township of West Windsor, accepts the Renewal Option under the current lease with the U.S.P.S. to lease the Property for post office operations which is desirable for the public convenience and welfare; and

BE IT FURTHER RESOLVED a fourth amendment to the current Lease a Fourth Option per the lease renewal beginning February 1, 2023 through January 31, 2028, in exchange for an annual rental rate of \$65,227.20; and

BE IT FURTHER RESOLVED the Mayor, Township Clerk, and Township Attorney are hereby authorized to execute and record any document(s) necessary in the fulfillment of this Resolution, specifically, an amendment to the Lease Agreement, upon review and approval of the document(s) by the Township Attorney; and

BE IT FURTHER RESOLVED upon final execution, the amendment to the Lease Agreement shall be incorporated by reference into this Resolution and shall be attached hereto; and

BE IT FURTHER RESOLVED the fourth amendment to the lease is the final Renewal Option the U.S.P.S. is exercising and before the lease expires negotiations of new terms will be initiated during 2027.

Adopted: October 11, 2022

I hereby certify that the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 11th day of October, 2022.

---

Gay M. Huber  
Township Clerk  
West Windsor Township

RESOLUTION

- WHEREAS, on July 7, 2022, the New Jersey Office of the State Comptroller (OSC) issued a report entitled “A Review of Sick and Vacation Leave Policies in New Jersey Municipalities” (OSC Report); and
- WHEREAS, the aim of the OSC Report was to gauge compliance by the State’s municipalities with sick and vacation leave policies addressed in laws adopted in 2007 and 2010; and
- WHEREAS, the OSC noted that certain collective bargaining agreements in West Windsor Township did not strictly comply with the 2007 and 2010 laws, and requested that the Township prepare a plan to address these issues; and
- WHEREAS, the Township’s labor counsel has prepared the attached corrective action plan (Exhibit A); and
- WHEREAS, the corrective action plan indicates, among other things, that the Township (1) has reviewed, and will continue to review, its personnel policies, ordinances, individual employment contracts and collective bargaining agreements to evaluate compliance with the 2007 and 2010 laws; (2) has developed a spreadsheet as an internal control measure to ensure proper determination of those employees subject to the 2007 and 2010 statutory limitations on supplemental compensation; and (3) will engage in contract negotiations with the Communication Workers of America, American Federation of State, County and Municipal Employees, Policemen’s Benevolent Association, and Superior Officers Association to ensure compliance with laws addressing sick and vacation leave; and
- WHEREAS, the anticipated completion date for the tasks in the corrective action plan is December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor, that the Township of West Windsor approves the proposed corrective action plan attached hereto as Exhibit A and authorizes the Township labor counsel to send the plan to the New Jersey Office of the State Comptroller.

Date Adopted: October 11, 2022

I hereby certify that the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 11<sup>th</sup> day of October, 2022.

---

Gay M. Huber  
Township Clerk  
Township of West Windsor

**ORDINANCE NO. 2022-20**

**AN ORDINANCE TO AMEND AND SUPPLEMENT  
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE ADDING CHAPTER 123 “PUBLIC ACCESS TO MUNICIPAL  
FACILITIES” OF THE TOWNSHIP OF WEST WINDSOR PROHIBITING PUBLIC  
ACCESS TO CERTAIN MUNICIPALLY-OWNED, LEASED, OR OPERATED AREAS  
OR CONTROLLED PROPERTY**

**WHEREAS**, the Township of West Windsor (“Township”) will soon reopen the Municipal Building after extensive renovations; and

**WHEREAS**, in recent years, visitors and residents have demanded access or gained unauthorized entry to municipally-owned, leased and operated areas only accessible to Township personnel, employees, or staff; and

**WHEREAS**, signage restricting access to nonpublic areas has largely been unsuccessful in addressing the issue; and

**WHEREAS**, visitors and residents who ignore signage and seek access to restricted or secured areas often disrupt Township staff and create the potential for disclosure of nonpublic information; and

**WHEREAS**, the Mayor and Township Council of the Township of West Windsor desire to implement reasonable restrictions of access to nonpublic areas of municipally-owned, leased and operated areas or controlled property to minimize disruptions by unruly visitors and to protect information not subject to public disclosure, all while allowing for the lawful exercise of First Amendment Rights.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of West Windsor, County of Mercer and State of New Jersey that:

The Code for the Township of West Windsor is hereby amended to add Chapter 123, entitled “Public Access to Municipal Facilities.”

**Article I: Chapter 123, “Public Access to Municipal Facilities.”**

§ 123-1 No Public Access to Restricted or Secured Areas

A. No member of the public shall access municipally-owned, leased, or controlled property, or any portion therefore, with restricted or secured access. Nonpublic areas of municipally-owned, leased operated areas, or controlled property include, but are not limited to:

- (1) All areas intended primarily for the use of Township employees to conduct Township business;
- (2) All areas beyond the lobby or service windows in the Municipal Building;

- (3) All areas beyond the lobby or service windows in the Health and Recreation Building;
- (4) All areas beyond the lobby in the Police Station;
- (5) All areas beyond the lobby or service windows in the Municipal Court Building, including courtrooms when court or a public meeting is not in session in this facility; and
- (6) All areas beyond the lobby and bay areas of the Fire and Emergency Services Building and their outer buildings;
- (7) All areas beyond the lobby or the front desk, bay areas of the Department of Public Works Building
- (8) All outer buildings on the Department of Public Works Site;
- (9) All areas designated at the Senior Center;
- (10) All areas designated at WaterWorks
- (11) All areas designated at Township Parks, pump stations, storage barns, etc.
- (12) All other areas designated as “nonpublic” pursuant to this Section, as evidenced by signage and/or physical barriers pursuant to Subsection B.

B. Nonpublic areas must be identified by a non-ambiguous sign, posted on or directly adjacent to the door, doorframe, or entrance to the restricted or secured area. Public access may also be restricted through the use of reasonable physical barriers. Signage limiting access to nonpublic areas shall include language such as “Authorized Personnel Only”, “Authorized Access Only,” “Township Personnel Only,” or “No Public Access Beyond This Point.”

#### § 123-2 Public Access to Nonpublic Areas

Members of the public may access nonpublic municipally-owned, leased operated areas, or controlled Township property upon explicit prior consent from the Township Business Administrator or the Township Business Administrator’s designee. After receiving approval, the individual must make an appointment with a Township employee who works in the nonpublic area or must be escorted by a Township employee during the entirety of the visit.

#### § 123-3 Violations and Penalties

It shall be a violation of this Chapter if a member of the public accesses restricted or secured areas owned, leased operated areas, or controlled property by the Township property in violation of Section 1 of this Chapter, or gains access to nonpublic areas without an appointment and is not escorted by a Township employee in violation of Section 2 of this Chapter. Violations of this Chapter shall be subject to the penalties provided in Article II, Section 1-3 of the Township Code.

**Article II: Repealer, Severability, and Effective Date.**

- A. Repealer. All ordinances or parts thereof inconsistent herewith are repealed as to such inconsistencies.
- B. Severability. 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 thereof.
- C. Effective Date. The ordinance shall take effect upon its passage and publication.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

MAYOR APPROVAL:

EFFECTIVE DATE:

2022-21

**AN ORDINANCE AMENDING AND SUPPLEMENTING PART II “GENERAL LEGISLATION” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR, NEW JERSEY (1999) CHAPTER 109 “MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS”,**

**WHEREAS**, the Township of West Windsor has determined that requiring registration of massage, bodywork and somatic therapy establishments will serve to protect and promote the health and safety of the residents; and

**WHEREAS**, such regulation will require the amendment of the Township Code to add a new chapter describing the registration requirements;

**NOW THEREFORE BE IT ORDAINED** by the West Windsor Township Council, County of Mercer, State of New Jersey that the Code of West Windsor Township be supplemented as follows:

**Section I:**

New Chapter 109 of the Township Code entitled: “Massage, Bodywork and Somatic Therapy” is hereby enacted as follows:

**109-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**MASSAGE, BODYWORK AND SOMATIC THERAPIES** shall mean any 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, external application of herbal or topical preparations not classified as prescription drugs, movement and neuromyofacial education and education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

**MASSAGE, BODYWORK AND SOMATIC THERAPIST** shall mean any person licensed pursuant to the provisions of the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53.

**MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENT** shall mean any establishment wherein massage, bodywork and/or somatic therapies are

administered or are permitted to be administered, when such therapies are administered for any form of consideration.

#### **109-2. Nonlicensed Therapists Prohibited.**

The administering of massage, bodywork and/or somatic therapies for any form of consideration by any person not licensed by the State of New Jersey pursuant to the Massage and Bodywork Therapist Licensing Act, P.L. 1999 c.19 amended 2007, c. 337. shall be prohibited throughout the Township of West Windsor.

#### **109-3. License Required**

Establishment. No person, firm or corporation shall operate any establishment or utilize any premises in the Township of West Windsor as or for a massage, bodywork and somatic therapy establishment unless or until such person, firm or corporation has obtained a license for such establishment or premises from the Municipal Clerk in accordance with the terms and provisions of this chapter.

#### **109-4. Renewals**

All licenses shall be valid for a period of three (3) years from the date of issuance.

Licensees may renew their licenses prior to expiration by filing a new application with the Municipal Clerk in the manner prescribed in this chapter under 109-5a and accompanied by the requisite fee.

#### **109-5. Initial Application for License.**

Establishment. Any person desiring a massage, bodywork and somatic therapy establishment license shall file a written application with the Municipal Clerk upon a form provided by the Clerk. The application form shall contain the following information:

- A. The type of ownership of the business i.e., whether individual, partnership, corporation or otherwise.
- B. The name, style and designation under which the business is to be conducted.
- C. The business address and all telephone numbers, including facsimile and email, where business is to be conducted.
- D. A complete list of the names and residence addresses of all massage, bodywork and somatic therapists and employees of the business and the name and residence address of the manager or other person principally in charge of the operation of the business.



- E. A sworn statement indicating that all massage, bodywork and somatic therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment have been licensed by the State of New Jersey pursuant to the Massage and Bodywork Therapist Licensing Act, P.L. 1999 c.19 amended 2007, c. 337.
  
- F. The following personal information concerning the applicant (s), if an individual; concerning each stockholder holding more than ten (10%) percent of the stock of the corporation, each officer and each director, if the applicant is a corporation; concerning the partners, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business shall be provided:
  - 1. The name, complete residence address and residence telephone number.
  - 2. The two (2) previous addresses immediately prior to the present address of the applicant.
  - 3. Written proof of age.
  - 4. Height, weight, sex, color of hair and eyes.
  - 5. Two (2) 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.
  - 6. Provide any massage therapy or similar business history and experience, including, but not limited to, 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 therefore and the business activities or occupations subsequent to such action or denial, suspension or revocation.
  - 7. All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof. The applicant shall execute a waiver and consent to allow a criminal background check by the Township Police Division. Failure to execute such a waiver and consent shall result in a denial of a license.
  - 8. The names and addresses of three (3) adult residents who will serve as character references. These references must be persons other than relatives and business associates.
  - 9. The fingerprints of the applicant(s).
  - 10. Proof of Insurance**
  - 11. Two (2) legal forms of ID, one of which must be a photo ID**
  - 12. Copy of Certification of each therapist**
  
- G. At the time the application is filed, a fee as established in Chapter 82 Fees, shall be paid to the Township Clerk to cover the cost of processing the application and investigating the facts stated therein.

### 109-5a Renewal Application for License

Every three years from the date of issuance the establishment is required to file a renewal application and pay the applicable fees in accordance with Chapter 82 Municipal Fees.

Renewal application will be provided by the Municipal Clerk's Office prior to the expiration of the current license.

1. Two (2) 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.
2. Renewal licenses will be required to file a SBI form. Fees associated with this are authorized in Chapter 82, Fees.
3. The applicant shall execute a waiver and consent to allow a criminal background check by the Township Police Division. Failure to execute such a waiver and consent shall result in a denial of a license.
4. If needed the Police Division may require fingerprints.
5. All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
6. Proof of Insurance
7. Two (2) legal forms of ID, one of which must be a photo ID
8. Copy of Certification of each therapist

A complete list of the names and residence addresses of all massage, bodywork and somatic therapists and employees of the business and the name and residence address of the manager or other person principally in charge of the operation of the business.

No review/inspection will be necessary for renewal application from other Departments/Divisions with the exception of yearly inspections being conducted by various departments/divisions in accordance with applicable codes.

### 109-5b Temporary License

A temporary license may be issued by the Township Clerk in thirty (30) day increments to cover the period between the expiration of the current license and the renewal license being issued.

### 109-5c. Change in Ownership

If a licensed establishment has a change in ownership this must be reported to the Township Clerk within 5 business days and an application must be filed within 10 business days for review and approval by the Township in accordance with 109-5 Application for License.

**No review will be necessary from other Departments/Divisions due to yearly inspections being conducted in accordance with applicable codes.**

**109-6. Inspection Requirements.**

The Municipal Clerk, upon receiving an **initial** application for a massage, bodywork and somatic therapy establishment license, shall refer the application to the various municipal departments (**i.e.** Division of Code Enforcement, Zoning, Health, **Fire and** Emergency Services) for review and conformance with applicable State and Township Codes for such an establishment.

No massage, bodywork and somatic therapy establishment shall be issued a license or be operated, established or maintained in the Township unless **the Owner of the business can represent compliance with applicable** [inspections by the appropriate municipal departments reveals that the establishment complies with the minimum requirements of the] Uniform Construction Code, **Uniform Fire Code**, and Health Codes [for businesses operating in the Township of West Windsor] **no violations and/or penalties remain outstanding**. 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 be constructed of material with surfaces which are smooth, non-absorbent, and which may be readily disinfected.
- B. A public restroom shall be available to clients and employees during all business hours.
- C. Water closets and lavatories shall be in conformance with the regulations set forth in the New Jersey Uniform Construction Code, N.J.A.C. 5:23
- D. If bathing, dressing and locker facilities are provided for the patrons and male and female patrons are served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.
- E. The premises shall have adequate equipment for disinfecting non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.
- F. Adequate hand washing facilities shall be conveniently located to each treatment area to maintain clean hands and arms of all employees before, after and during treatments.
- G. Hand sinks shall be provided with hot and cold water capable of delivering running water under pressure at a temperature of 90-110 degrees Fahrenheit.

### **109-7. Investigating and Issuance of License**

- A. When said application is properly filled out, signed by the applicant and has been filed with the Municipal Clerk with all accompanying information, the application shall be referred by the Clerk to the Township Police Division. The Chief of Police or his or her designee shall investigate the information available as to the applicant's business and good moral character of the applicant as deemed necessary for the protections of the public health, welfare and safety.
- B. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory or that the issuance of a license to the applicant would present a danger to the public health, welfare or safety, the Chief of Police shall endorse on such application his disapproval and reasons for same and return the application to the Township Clerk, who shall notify the applicant that the application is disapproved.
- C. If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory and the issuance of the license to the applicant will present no danger to the public health, safety and welfare, the Chief of Police shall indicate his approval on the application and return the application to the Township Clerk, who shall execute and deliver to the applicant the license.

### **109-8. Revocation of License.**

- 1. Licenses issued under this chapter may be revoked by the Chief of Police, after notice and a hearing, for any of the following causes:
  - A. Fraud, misrepresentation or false statement in the application for the license.
  - B. Fraud, misrepresentation or false statement made in the course of carrying on the licensed business in the Township.
  - C. If the Chief of Police, Health Officer or their designee is denied access to the premises for the purpose of conducting an inspection.
  - D. Any violation of this chapter.
  - E. Conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, and any crime involving dishonesty.
  - F. Conducting the licensed 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.

Notice of the hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be given personally or mailed to the licensee at his/her last known address at least five (5) days prior to the date set for the hearing. (see section 109-17)

Such license may, pending revocation proceedings, be suspended for not more than ten (10) days by the Chief of Police if, in his/her opinion, the conduct of the licensee is detrimental to the health, safety and general welfare of the Township of West Windsor.

The Chief of Police shall serve as hearing officer for any hearing pursuant to this subsection.

#### **109-9. Criteria for Immediate Closure**

The Licenses issued under this chapter may be immediately suspended by the Chief of Police for the following reasons:

- i. Massage, bodywork or somatic therapy is provided by unlicensed therapist.
- ii. Unsanitary or unsafe conditions which may adversely impact the health and/or safety of the public.

#### **109-10. Display of License.**

The massage, bodywork and somatic therapy establishment shall display its license as well as the New Jersey license of each and every massage, bodywork and somatic therapist employed in the establishment in an open and conspicuous place on the premises of the establishment.

#### **109-11. Operating Requirements.**

Every massage, bodywork, and somatic therapy establishment shall comply with the following:

- A. Every portion of the massage, bodywork, and somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. A broad spectrum anti-microbial disinfectant shall be used.
- B. Price rates for all services shall be prominently posted (brochures or price list) in the reception area in a location available to all prospective customers.

- C. All employees, including massage, bodywork, and somatic therapists, shall be clean and wear clean, nontransparent outer garments. Dressing rooms must be available on the premises. Doors to such dressing rooms shall open inward, be self-closing, and non-lockable.
- D. Handwash sink shall be used solely for the washing hands, arms and other parts of the body.
- E. Handsinks shall be supplied with liquid soap and disposable hand towels at all times.
- F. Every area of the establishment shall be provided with lighting capable of providing a minimum of 50 foot candles of artificial light. Lighting may be dimmed during treatment sessions.
- G. Massage tables shall be maintained in good condition and free of rips or tears
- H. Toilet paper, covered trash, liquid hand soap and disposable paper towels or alternate means of hand drying shall be provided in restrooms.
- I. All massage, bodywork and somatic 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.
- J. Soiled linens and draping materials shall be either commercially laundered or washed on site in a clothes washing machine, in hot water with detergent and at least one cup of bleach or an antibacterial agent, and dried on the high heat setting in a clothes dryer.
- K. Linens used in a licensed establishment may not be laundered in a private home.
- L. Closed containers shall be provided for soiled linens.
- M. The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage, bodywork or somatic therapist.
- N. It shall be unlawful for any person knowingly, in a massage, bodywork, and somatic therapy establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of any other person. No massage, bodywork and somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of the patron's sexual or genital area.
- O. All walls, ceilings, floors, pools, showers, bathtubs, steamrooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary

condition. Wet and dry heat-rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors it shall be kept dry.

- P. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be kept in clean closed containers or cabinets.
- Q. Animals, except for [Seeing Eye] service or guide dogs, shall not be permitted in the massage work area.
- R. Each massage, bodywork and somatic therapist shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage.

#### **109-12. Inspections by Police Division or Health Department.**

The Chief of Police and Health Officer and/or their designees are authorized to conduct random inspections of massage, bodywork and somatic therapy establishments granted a permit under the provisions of this chapter for the purpose of determining whether the provisions of this chapter are being complied with. Such inspections shall be unannounced but shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee or employee of the licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

The operator shall permit access to all parts of the establishment and all pertinent records required for the inspection shall be made available to the health authority representative for review.

#### **109-13. Sleeping Quarters.**

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

#### **109-14. Prohibited Acts.**

- A. No owner or manager of a massage, bodywork and somatic therapy establishment shall tolerate 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

tolerate in his or her establishment any activity or behavior which violates this chapter.

- B. Any conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes may 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 licenses which have been issued may be automatically revoked.

#### **109-15. Exceptions.**

The provisions of this chapter shall not apply to massage, bodywork or somatic therapies given:

- A. In the office of licensed physician, chiropractor or physical therapist; or
- B. By a regularly established medical center, hospital or sanitarium 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 or cosmetologist/ hairstylist limited to the areas of the face, neck, scalp or upper part of the body as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.

#### **109-16. Violations and Penalties.**

In addition to the revocation or suspension of the license granted under this chapter any person violating any provision of this chapter shall be subject to the penalty stated in Chapter 1, General Provisions, Article II, Penalty, 1-3.

#### **109-17. Relicensing after Revocation**

- A. Any person whose license has been revoked under the provisions of 109-8 may apply to be relicensed upon filing of proof that all loss caused by the actor or omissions for which the license was revoked had been fully satisfied and that all conditions imposed by the decision of the revocation have been complied with.
- B. Payment of a registration fee as established in Chapter 82, Fees.



**109-18. Service of notices**

Whenever notice is required or permitted to be given by this chapter, such notice may be effected by personal service upon the licensee if an individual or any general partner, if a partnership, or upon any corporate officer, if a corporation, or alternatively, to any of foregoing, by certified mail, return receipt requested, to the last address listed in the Township Clerk's office in conjunction with the license information. It shall be the duty of each licensee to keep the township advised of any subsequent change of address. Upon failure of a licensee to comply with this requirement, any notice returned with the notation "unknown," "moved," or "not claimed" shall be deemed proper service of all notices required by this chapter.

**Section III:**

In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance deemed severable there from and shall not be affected.

**Section IV. Effective Date**

This Ordinance shall become effective twenty (20) days after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Township Council. Publication shall be in accordance with law.

INTRODUCTION:  
PUBLIC HEARING:  
ADOPTION:  
MAYOR APPROVAL:  
EFFECTIVE DATE: