ORDINANCE 27-2019

BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY

AN ORDINANCE AMENDING CHAPTER 201, ENTITLED, "MASSAGE, BODYWORK AND SOMATIC THERAPY BUSINESSES"

WHEREAS, the Mayor and Council of the Borough of Eatontown adopted the original Massage, Bodywork and Somatic Therapy Businesses Ordinance on September 26, 2018 by Ordinance No. 07-2018; and

WHEREAS, the governing body of the Borough of Eatontown feels it appropriate to amend the aforesaid Ordinance to provide greater detail in addressing regulation of the aforesaid activities in order to better protect the public and carry out the licensing requirements of the State of New Jersey.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Eatontown, County of Monmouth and State of New Jersey that Chapter 201 is hereby amended as follows:

§ 201-1. Definitions.
As used in this Chapter, the following terms shall have the meanings indicated:

CERTIFICATE
The document issued by the Borough of Eatontown to any non-owner/therapist working for an establishment established for the purpose of massage, bodywork and/or somatic therapy.

HOUSE OF PROSTITUTION
Any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another. "House of Prostitution" shall further be defined in accordance with N.J.S.A. 2C:34-1.

LICENSE
The document issued by the Borough of Eatontown required of any owner of an establishment for massage, bodywork and/or somatic therapy established in the Borough of Eatontown, as well as any person identified as a therapist who provides massage, bodywork and/or somatic therapy in the Borough of Eatontown.

MASSAGE, BODYWORK AND SOMATIC THERAPIES
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
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
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.

MASSAGE, BODYWORK OR SOMATIC AREA
Any room, floor or section of a massage, bodywork or somatic therapy business or establishment where massage, bodywork, pressure and/or somatic therapies as herein defined are carried out.

PERSON
Any individual, firm, member of a firm, partnership, member of a partnership, corporation or any officer, director or stockholder of such corporation, voluntary association or incorporated association. "Person" shall specifically include and apply to the individual owners of the massage, bodywork and somatic therapy businesses as well as entities.

PROSTITUTION
Any sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer to engage in sexual activity in exchange for something of economic value. "Prostitution" shall further be defined in accordance with N.J.S.A. 2C:34-1.

SEXUAL CONTACT
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 the Licensee's or Licensee's employee'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 Licensee's or Licensee's employee's body upon a part of the client's body, sexual penetration, or the insertion or imposition of any object or any part of the Licensee's or Licensee's 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. "Sexual Contact" shall further be defined in accordance with N.J.A.C. 13:37A-3.5 as amended.

SEXUAL HARASSMENT

The solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, which occurs in connection with a Licensee's activities or role as a provider of massage and bodywork therapy services that is unwelcomed or offensive to a reasonable person, or creates a hostile workplace environment, and the Licensee knows, should know or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual Harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a Licensee or employee with a client, co-worker, employee, student or supervisee, whether or not such individual is in a subordinate position to the Licensee. "Sexual Harassment" shall further be defined in accordance with N.J.A.C. 13:37A-3.5 as amended.

SEXUAL MISCONDUCT

Any "sexual contact" and/or "sexual harassment" and/or "prostitution" or "house of prostitution" as defined by this Ordinance and N.J.A.C. 13:37A-3.5 and N.J.S.A. 2C:34-1.

§ 201-2. Non-licensed 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 to the Massage and Bodywork Therapist Licensing Act, P.L. 1999, c. 19, amended 2007, c. 337 shall be prohibited throughout the Borough of Eatontown.

§ 201-3. License required.

A. Establishment: No person, firm or corporation shall operate any establishment or utilize any premises in the Borough of Eatontown as a massage, bodywork and/or somatic therapy establishment unless or until such person, firm of corporation has obtained a license for such establishment or premises from the Municipal Clerk of the Borough of Eatontown in accordance with the terms and provisions of this Chapter.

B. Therapist: No individual shall act as a massage, bodywork and/or somatic therapist without obtaining a municipal license. An applicant must further submit satisfactory evidence of certification from the State of New Jersey pursuant to the Massage and Bodywork Therapist Act, N.J.S.A. 45:11-53.

C. Non-therapist employee: All non-therapist employees and non-owners shall complete and submit an application for a municipal certificate to the Borough of Eatontown Clerk, which shall contain the following:
   (1) Name and complete address of the residence and telephone number of the applicant.
   (2) Previous address within the last five years prior to the present address of the applicant.
   (3) Written proof of age.
   (4) Height, weight, sex and color of hair and eyes.
   (5) Two front-faced portrait photographs taken within 30 days of the date of application at least two inches by two inches in size.
   (6) The dates and locations of other places the applicant worked and functioned at a massage therapy business.
   (7) All criminal arrests, charges and convictions other than traffic violations, fully disclosing the time, place, date, disposition and jurisdiction in which convicted, and providing a description of the offense for which the party was convicted and circumstances thereof. The applicant shall execute a waiver of consent to allow fingerprinting and a criminal background check by the Borough of Eatontown pursuant to Subsection D below. Failure to execute such a waiver and consent shall result in denial of a certificate.
   (8) A statement as to whether the applicant while previously employed in an establishment promoting massage therapy had a local license or certificate denied, revoked or suspended, or was fired from the aforesaid establishment and the circumstances of such action.

D. Investigating and fingerprinting of the applicant: All applicants seeking a certificate under this Chapter shall obtain a criminal history record check via electronic live scan at one of the approved sites. The applicant shall undergo fingerprinting by method and/or vendor utilized by the Eatontown Police Department at the time of the application. The applicant shall be responsive for all related fees associated with the fingerprinting process.

§ 201-4. Renewals.

A. All licenses shall be valid January 1 to December 31 each year.

B. Licensees may renew their licenses prior to expiration by filing a new application with the Municipal Clerk of the Borough of Eatontown in the manner prescribed in this Chapter and accompanied by the requisite fee.

C. A license for renewal may be denied based on any history of prior violation of this Ordinance.

§ 201-5. Application for license for establishment and therapist.

A. Establishment: Any person desiring a massage, bodywork and somatic therapy establishment license shall file a written application with the Municipal Clerk of the Borough of Eatontown upon a form provided by the Municipal Clerk. The application form shall contain the following information:
   (1) The type of ownership of the business, i.e., whether individual, partnership, corporation or otherwise.
   (2) The name, style and designation under which the business is to be conducted.
   (3) The business address and all telephone numbers, including facsimile, where business is to be conducted.
   (4) 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.

(5) 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.

(6) The following personal information concerning the applicant(s), if an individual; concerning each stockholder holding more than 10% 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:

(a) The name, complete residence address and resident telephone number.

(b) The two previous addresses immediately prior to the present address of the applicant.

(c) Written proof of age.

(d) Height, weight, sex, color of hair and eyes.

(e) Two front-face portrait photographs taken within 30 days of the date of the application and at least two inches by two inches in size.

(f) 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, certificate 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.

(g) The dates and locations of other places the applicant worked and functioned at a massage therapy business.

(h) All criminal arrests, charges and convictions other than traffic violations, fully disclosing the time, place, date, disposition and jurisdiction in which convicted, and providing a description of the offense for which the party was convicted and circumstances thereof. The applicant shall execute a waiver of consent to allow fingerprinting and a criminal background check by the Borough of Eatontown pursuant to §201-3D above. Failure to execute such a waiver and consent shall result in denial of a license or certificate.

(7) At the time the application is filed, a fee as established below shall be paid to the Municipal Clerk of the Borough of Eatontown to cover the cost of processing the application and investigating the facts stated therein.

B. Therapist: Any person acting as a therapist in an establishment as defined above shall file a written application with the Municipal Clerk of the Borough of Eatontown on a form provided by the Municipal Clerk.

(1) The application shall include:

(a) Copy of certificate from State of New Jersey pursuant to N.J.S.A. 45:11-53.

(b) Name and complete address of the residence and telephone number of the applicant.

(c) Previous address within the last five years prior to the present address of the applicant.

(d) Written proof of age.

(e) Height, weight, sex and color of hair and eyes.

(f) Two front-faced portrait photographs taken within 30 days of the date of application at least two inches by two inches in size

(g) The dates and locations of other places the applicant worked and functioned at a massage therapy business.

(h) All criminal arrests, charges and convictions other than traffic violations, fully disclosing the time, place, date, disposition and jurisdiction in which convicted, and providing a description of the offense for which the party was convicted and circumstances thereof. The applicant shall execute a waiver of consent to allow fingerprinting and a criminal background check by the Borough of Eatontown pursuant to §201-3D above. Failure to execute such a waiver and consent shall result in denial of a certificate.

§ 201-6. License issuance requirements.

A. The Municipal Clerk of the Borough of Eatontown, upon receiving an application for a massage, bodywork and somatic therapy establishment license, shall refer the application to the appropriate municipal departments and divisions for review and conformance with applicable State and Borough Codes for such an establishment.

B. No massage, bodywork and somatic therapy establishment shall be issued a license or be operated, established, or maintained in the Borough of Eatontown unless inspections by the appropriate Borough Departments reveal that the establishment complies with the minimum requirements of the Uniform Construction Code and Health Codes for business operating in the Borough of Eatontown. In addition, the establishment must comply with each of the following minimum requirements:

(1) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall be constructed of material and surfaces which are smooth, nonabsorbent and which may be readily disinfected.

(2) A public restroom shall be available to clients and employees during all business hours.

(3) 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.

(4) 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.

(5) 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.

(6) 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 treatment.

(7) Hand sinks shall be provided with hot and cold water capable of delivering running water under pressure at a temperature of 90° to 110° Fahrenheit.

§ 201-7. Investigation; issuance of license or certificate.

A. When said application is properly filled out, signed by the applicant and has been filed with the Eatontown Municipal Clerk with all accompanying information, the application shall be referred to the Construction Code Department, the Fire Prevention Division, the Police Division, the Health Department and the Zoning/Planning Departments who shall make a written recommendation to the clerk affirming compliance with the codes they administer. Any application not complying with all codes and/or failing a background check from the appropriate Departments and Divisions will be denied. Any applicant who is denied by the Clerk shall have a right to appeal said decision and have a hearing before the Borough Administrator by filing a written request of appeal within 15 days of receipt of denial. The Borough Administrator shall hold a hearing on the denial, which will include the applicant and any other witnesses by the parties within 15 days of receipt of the written request of appeal. The Borough Administrator shall render a written decision within 15 days after the hearing. An aggrieved applicant may appeal from the Borough Administrator's decision to the Mayor and Council by written appeal to the Mayor and Council within 15 days of receipt of the Borough Administrator's decision, and the Mayor and Council shall have an appeal's hearing within 30 days of receipt of a written request for appeal; unless the parties mutually agree on an extension, and shall decide the appeal based on the record below established by the Borough Administrator only. Any further appeal beyond the Mayor and Council shall require filing a lawsuit in the Superior Court of New Jersey, Monmouth County.

§ 201-8. Revocation of license or certificate.

A. Licenses and certificates issued under this Chapter may be revoked, after notice and a hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement in the application for the license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the licensed business in the Borough.

(3) If the Chief of Police, Health Officer or their designee is denied access to the premises for the purpose of conducting an inspection.

(4) Any violation of this Chapter.

(5) 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.

(6) Conducting the licensed business in the Borough in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(7) Participation in sexual misconduct as defined by this Ordinance and N.J.A.C. 13:37A-3.5 and/or prostitution or running a house of prostitution as defined by N.J.S.A. 2C:34-1, or promoting sexual misconduct or prostitution.

B. Notice of 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 license and his/her last known address at least five days prior to the date set for the hearing. (See § 201-7.)

C. Such license may, pending revocation proceedings, be suspended for not more than 10 days by the appropriate Department or Division if the conduct of the license is detrimental to the health, safety and general welfare of the Borough of Eatontown.

D. The Borough Administrator shall serve as hearing officer for any hearing pursuant to this subsection, with the Borough Official presenting his findings and recommendations to the hearing officer. The time period for rendering a decision by the Borough Administrator and the right of appeal and procedure thereof shall be the same as the time period and procedure set forth under §201-7.

§ 201-9. Criteria for immediate closure.

A. The licenses issued under this Chapter may be immediately suspended by the appropriate Borough Official if: (1)Massage, bodywork or somatic therapy is provided by an unlicensed therapist. (2) Unsanitary or unsafe conditions which may adversely impact the health and/or safety of the public.

B. Any license holder may object to this section and appeal the immediate suspension per § 201-7.

§ 201-10. Display of license and certificate.

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. Each and every therapist and non-therapist employee shall display their license or certificate in an open, conspicuous place. All licenses and certificates must affix to the displayed license or certificate a two-inch-by-two- inch passport size photo of the establishment owner, licensed therapist and/or non-therapist employees on site, and must have in their possession a government issued photo identification at all times.

§ 201-11. 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 antimicrobial 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. Regular hours of operation for the business shall be prominently posted in a location visible to the public. All operations under this Chapter shall be closed no later than 10:00pm and shall remain closed until 6:00 a.m.

D. Contemporaneous and permanent entries into client records, which shall accurately reflect the massage and bodywork services rendered shall be maintained by all Licensees pursuant to N.J.A.C. 13:37A-5.2. Said client records shall contain at a minimum an intake form filled out by each customer to include their name; address; phone number; date of birth; date of service; specific service received by client; the licensed therapist's full name and their New Jersey State Massage and Bodyworks Therapist License Number; the signature of the client; reasons for visits, including physicians prescription, if there is one; modalities used; area of focus on the body; and any referral to another healthcare professional. These records shall be maintained for a period of seven years from the date of the most recent entry or the time period prescribed by N.J.A.C. 13:37A-5.2(a) with access to said records pursuant to N.J.A.C. 13:37A-5.3, which provides that the Licensee shall release client records as directed by a Subpoena issued by the New Jersey State Attorney General or the New Jersey Board of Massage and Bodywork Therapy, or by a demand for a statement in writing under oath pursuant to N.J.S.A. 45:1-18, which provides investigative powers to the New Jersey Board of Massage and Bodywork Therapy and to the New Jersey Attorney General.

E. 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 be non-lockable.

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 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 or somatic therapist, employee shall perform or offer to perform any act which would require the touching of the patron's sexual or genital area. It shall be unlawful for any person to participate or promote sexual misconduct as defined by this Ordinance and N.J.A.C. 13:37A-3.5 or prostitution as defined by this Ordinance and N.J.S.A. 2C:34-1.

O. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms 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 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.

S. The hand wash sink shall be used solely for the washing of hands, arms and other parts of the upper body.
T. Hand wash sinks shall be supplied with liquid soap and disposable hand towel at all times.

§ 201-12. Inspections by Police Department, Health Department and/or Construction Department.

A. The Chief of Police or Health Officer or Construction Code Official/Code Enforcement Officer and/or their designees are authorized to conduct random inspections of massage, bodywork, or 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 may 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.
B. The owner or operator shall permit access to all parts of the establishment and all pertinent records required for the inspection shall be made available to the appropriate Borough Official designated in §201-12A for review upon request.
C. Should a reinspection of a massage establishment become necessary as determined by the Borough Official because of violations observed during the initial inspection, a reinspection fee of $150 shall be charged to the establishment for each subsequent reinspection until all violations have been corrected. The fee must be paid by the establishment to the Borough within 10 calendar days of the date the charge was issued.
D. All fees shall be paid to the Borough Clerk's office prior to being considered for approval. All fees are nonrefundable and/or nontransferable. All permits under this Chapter are subject to the late fee of $25 if the permit is not renewed in the appropriate time.

§ 201-13. 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, hotel or other separate business or club.

§ 201-14. 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 materials; 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, including but not limited to sexual misconduct and/or prostitution as defined by this Ordinance.
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 revoked pursuant to this Chapter.
C. Any owner of premises leasing a portion or total property to a tenant, and who knowingly leases said property or premises to a tenant who is involved in sexual misconduct and/or prostitution as defined by this Ordinance, or who has failed to make a reasonable effort to abate such use by ejecting or evicting the tenant upon notifying law enforcement authorities or other legal available means, and who knowingly allows in addition to sexual misconduct and/or prostitution other related offenses in violation of N.J.S.A. 2C:34-1, shall also be in violation of this Ordinance and shall be subject to violations and penalties set forth more fully in §201-16 of this Ordinance, in addition to any other criminal or civil penalties that may be assessed as a result of the owner's conduct.

§ 201-15. 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.

§ 201-16. 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 a fine not exceeding $2,000; imprisonment for a term not exceeding 90 days; and/or a period of community service not exceeding 90 days, or any combination thereof. Each day that a violation continues shall be considered a separate and distinct violation.

A. All provisions of this Chapter shall be enforceable by the Police Department of the Borough of Eatontown or where there is a health violation, by the official Health Officer, or where there is a construction code violation by the Construction Code Official or Code Enforcement Department. Appeals to violations shall be decided by the local Municipal Court.
B. In addition to hearing appeals to violations in the Municipal Court, by separate authorization by the governing body of the Borough of Eatontown, action may be taken in the Superior Court of New Jersey or other appropriate court seeking injunctive relief or other relief appropriate to enforcing this Chapter, along with the right to seek damages and legal fees where allowed by law.
C. A violation of this Ordinance shall not limit prosecution for separate criminal offenses related to the violation of said Ordinance or civil liability either brought by the municipality or third parties.
D. Upon revocation or suspension of an establishment license, the Eatontown Police Department shall place in a highly noticeable location a plate card stating, "Unsafe to Enter; Unlicensed Massage Therapy Must Cease and is Subject to Municipal, Criminal and/or Civil Penalties per Ordinance 27-19." The aforesaid notice shall remain posted until either a valid license is obtained for the establishment or there is a change in use to the establishment.

§ 201-17. Relicensing or recertification after revocation.

A. Any person whose license has been revoked under the provisions of §201-8 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 below.
C. Any person whose license has been revoked under the provisions of §201-8 two or more times in the Borough of Eatontown or in any other municipality in the State of New Jersey shall be denied relicensing or recertification upon application.

§ 201-18. Service of notice.

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 the foregoing, by certified mail, return receipt requested, to the last address listed in the Municipal Clerk's Office in conjunction with the license information. It shall be the duty of each licensee to keep the Borough 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.

§ 201-19. Annual registration fee.

An annual registration fee is due with the application and required to be paid on January 2 of any given year thereafter. The applicant shall pay a $500.00 fee upon filing the initial application for the operation of the establishment for the services regulated by this Chapter, and any individual applicant (as opposed to a business entity) who wishes to be licensed for massage, bodyworks and somatic therapy under this Chapter shall pay an initial application fee of $100.00. All certificates from non-therapist employees shall pay an initial application fee of $50.00. All licenses and certificates shall be valid from January 1 to December 31. All provisions of this Chapter, including the requirement for filing fee shall apply to renewals in the same manner as may apply to the applications for initial licenses and certificates. Licenses and certificates are not transferrable.

All fees shall be paid to the Borough Clerk's office prior to being considered for approval. All fees are nonrefundable and/or nontransferable. All permits under this Chapter are subject to the late fee of $50.00 if the permit is not renewed in the appropriate time.

§ 201-20. Insurance requirements.

Any person or entity engaged in the business of operating an establishment regulated by this Chapter as defined by this Chapter, shall be required to carry a professional liability insurance policy with a minimum amount of $10,000 for each occurrence; plus $10,000 for each individual. A copy of such policy shall be submitted for approval with the application for a license or renewal.

BE IT FURTHER ORDAINED, that if any of section or provision of this Chapter thereof shall be adjudged invalid, such determination shall not affect the other sections or provisions thereof, which shall remain in full force and effect.

BE IT FURTHER ORDAINED, that all the Ordinances and provisions of the Code of the Borough of Eatontown or parts thereof which are inconsistent with any provisions of this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication as required by law.

DATE INTRODUCED: September 25, 2019
DATE ADOPTED: October 23, 2019

APPROVED:

ANTHONTY TALERICO, JR., MAYOR
Date: 10-24-2019

ATTEST:

JULIE MARTIN, MUNICIPAL CLERK
Date: 10-24-2019