

ORDINANCE NO. 3500-19

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 55,
ENTITLED "MASSAGE, BODYWORK AND SOMATIC THERAPIES"
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF RUTHERFORD,
COUNTY OF BERGEN AND STATE OF NEW JERSEY**

BE IT ORDAINED by the Mayor and Council of the Borough of Rutherford, County of Bergen and State of New Jersey that the entirety of Chapter 55, entitled "Massage, Bodywork and Somatic Therapies" of the Code of the Borough of Rutherford is hereby repealed in its entirety and shall be replaced with the following newly titled Chapter "Massage and Bodywork Therapies" as follows:

Chapter 55 - Massage and Bodywork Therapies

§ 55-1. - Purpose.

The Borough of Rutherford acknowledges that massage and bodywork therapy is a legitimate professional field that provides health benefits and that the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq. requires licenses for all those who engage in the practice of massage and bodywork therapy and that all massage and bodywork therapy establishments register with the New Jersey Board of Massage and Bodywork Therapy. The Borough nevertheless finds that the practice of such therapy by untrained and unlicensed practitioners can both cause injury and illness to clients and can encourage and foster prostitution. It is declared that the operation of a massage establishment, as defined in this chapter, is a business affecting the public health, safety and welfare of the Borough of Rutherford and its residents. The purpose of this article is to provide standards to help assure that the practice of massage and bodywork therapy does not cause injury or disease to clients and does not degenerate into prostitution.

§55-2. - Definitions.

For the purpose of this chapter, the following definition shall apply:

MASSAGE AND BODYWORK 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, and bodywork principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, explaining and describing myofascial movement,

and self-care and stress management as it relates to massage and bodywork therapies. Massage and bodywork therapy practices are designed to affect the energetic system of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage and bodywork therapies shall not include the diagnosis or treatment of illness, disease, impairment, or disability.

§55-3. - Employment of unlicensed massage and bodywork therapists prohibited; display of state issued licenses for therapists and establishment registration.

A. No person shall practice massage or related therapies as a massage and bodywork therapist employee or otherwise in the Borough of Rutherford unless he or she annually presents proof of a valid and subsisting massage and bodywork therapist's license issued by the State of New Jersey licensing agency known as the "New Jersey Board of Massage Therapy," a part of the New Jersey Department of Law and Public Safety within the State Division of Consumer Affairs pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq., to the Borough Health Department, no later than January 10th of each year. All newly employed massage and bodywork therapists to existing massage and bodywork establishments within the Borough shall provide a copy of their valid and subsisting massage and bodywork therapist's license issued by the State of New Jersey licensing agency known as the "New Jersey Board of Massage Therapy" before practicing massage and related therapies within the Borough of Rutherford and then annually thereafter no later than January 10th of each year.

B. No person shall employ anyone as a massage or bodywork therapist in the Borough of Rutherford unless the massage and bodywork therapist has presented proof of a valid and subsisting massage and bodywork therapist's license issued by the State of New Jersey licensing agency known as the "New Jersey Board of Massage Therapy," a part of the New Jersey Department of Law and Public Safety within the State Division of Consumer Affairs pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq., to the Borough Health Department.

C. No massage and bodywork establishment shall operate within the Borough of Rutherford unless the establishment presents proof every two (2) years of a valid registration issued by the State of New Jersey licensing agency known as the "New Jersey Board of Massage Therapy," a part of the New Jersey Department of Law and Public Safety within the State Division of Consumer Affairs pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq., to the Borough Health Department, no later than January 10th of the applicable year.

D. The massage and bodywork therapy establishment shall display the licenses of each and every massage and bodywork therapist employed in the establishment as well as the establishment's registration issued by the State of New Jersey licensing agency known as

the "New Jersey Board of Massage Therapy" in an open and conspicuous place on the premises of the establishment.

§55-4. - Massage and bodywork therapy establishments to comply with health codes of the Borough of Rutherford; prices and standards for establishments to be posted; sanitary requirements for establishments.

- A. Every massage and bodywork therapy establishment shall comply with the following:
1. Every portion of the massage and bodywork therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
 2. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
 3. All employees, including massage and bodywork therapists, shall be clean and wear clean, non-transparent outer garments. Dressing rooms must be available on the premises. Doors to such dressing rooms shall open inward and shall be self-closing.
 4. 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.
 5. All massage tables shall be disinfected after each use.
 6. 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 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, clean and sanitary.
 7. All tables, tubs, shower stalls and floors, except reception and administrative areas shall be made of nonporous materials, which may be readily disinfected. Closed containers shall be provided for used towels and waste materials.
 8. Oils, creams, lotions and other preparations used in administering massage and bodywork therapies shall be kept in clean closed containers or cabinets.
 9. Animals, except for service animals, shall not be permitted in the massage work area.
 10. Each massage and bodywork therapist shall wash his or her hands in hot running water, using property soap or disinfectant before administering a massage and bodywork therapy to a patron.

11. A copy of this section shall be posted in every massage therapy establishment in a conspicuous location visible to clients of the establishment.

12. All employees, including massage and bodywork therapists, shall be deemed responsible for the clean, safe, and lawful business operation on the premises.

§55-5 - Conduct of massage and bodywork therapy.

The conduct of licensed massage and bodywork therapists and massage and bodywork establishments shall be in accordance with the New Jersey Board of Massage and Bodywork Therapy law set forth at N.J.S.A. 45:11-53, et. Seq., and the regulations pertaining to same set forth at N.J.A.C. 13:37A-1.1.

§55-6 Minor patrons.

Any patron under the age of eighteen (18) years of age must be accompanied by a parent or guardian or adult with written permission of the parent or guardian.

§55-6 - Alcoholic beverages or controlled dangerous substances prohibited.

A. Alcoholic beverages shall not be distributed or consumed on the premises of any massage and bodywork therapy establishment certified under this chapter.

B. Controlled dangerous substances, as defined by the laws of the State of New Jersey shall not be distributed or consumed on the premises of any massage and bodywork therapy establishment certified pursuant to this Chapter.

§55-7. - Sleeping quarters.

No part of the 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 incidental to and directly related to a massage and bodywork therapy treatment or bath. This provision shall not preclude the location of massage and bodywork therapy establishments in separately demised quarters of a building housing a hotel or other separate businesses or clubs.

§ 55-8 Building Requirements; Inspections

Prior to opening a massage and bodywork therapy establishment within the Borough of Rutherford, the Health Department, Zoning/Code Enforcement Department, and Bureau of Fire Safety shall inspect the premises for the purpose of issuing a Continued Certificate of Occupancy as required by Borough Code. No massage and bodywork therapy establishment shall be permitted to operate within the Borough of Rutherford unless an inspection by the Health Department, the Building Department and the Bureau of Fire Safety has been conducted and the establishment is in compliance with the minimum

requirements of the Zoning, Fire and Health Codes. The Bureau of Fire Safety shall conduct an annual inspection to ensure compliance with the requirements of the New Jersey Uniform Fire Code NJAC 5:70 et.seq.

§ 55-9 Right to inspect.

The Borough Health Department, Bureau of Fire Safety, Borough Code Enforcement Department, and Borough Police Department shall have the right and authority to inspect the places of business that are regulated under this chapter and other pertinent portions of the Borough code to ensure compliance with this chapter and such other laws, rules and regulations that may apply, including the State Sanitary Code as per N.J.S.A. 26:1A-9, the New Jersey Uniform Fire Code N.J.A.C. 5:70, and the New Jersey Uniform Construction Code as per N.J.A.C. 5:70, and to ensure the health, safety, and welfare of the citizens of the Borough of Rutherford and of the clients of and visitors to therapy establishments.

§55-10. - Prohibition; exceptions for other licensed/registered facilities; hours of operation.

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

- A. By properly registered/licensed and operated hospital, medical, osteopathic, chiropractic, and medical-affiliated physical therapy facilities; or
- B. By a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists;
- 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.
- E. All massage and bodywork therapy establishments within the Borough of Rutherford shall be prohibited from accepting customers for any services except from Monday through Saturday from 8:00 a.m. until 10:00 p.m.

§55-11. - Violations and penalties.

- A. Any person who shall violate any of the provisions of this chapter shall, upon conviction, be punished by a fine of not less than \$500 and not more than \$1,000 per violation, be punished by imprisonment in the county jail for a period not to exceed 180 days, or both. Each violation of any of the provisions of this chapter shall be deemed and taken to be a separate and distinct offense.

- B. All provisions of this chapter shall be enforceable by the Police Department of the Borough of Rutherford or, where there is a health violation, by the Health Official, or, where there is a construction code violation by the Construction Code Official or Code Enforcement Officer or, where there is a fire code violation, by the Fire Marshall.
- C. In addition to hearing violations in the Municipal Court, by separate authorization by the governing body of the Borough of Rutherford, action may be taken in the Superior Court of New Jersey or other appropriate court seeking injunctive relief or other relief appropriate to enforce this chapter, along with the right to seek damages and legal fees where permitted by law.

§ 55-12 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 hereof.

ATTEST:

BOROUGH OF RUTHERFORD

Margaret M. Scanlon

Joseph DeSalvo Jr.

Margaret M. Scanlon, Borough Clerk

Joseph DeSalvo Jr., Mayor

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Mayor and Council at a meeting held on [May 13, 2019](#).

Margaret M. Scanlon

Margaret M. Scanlon, Borough Clerk