

BOROUGH OF KINNELON

ORDINANCE NO. 02-2026

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KINNELON AND PROVIDING FOR LICENSING AND REGULATION OF MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS

WHEREAS, pursuant to N.J.S.A. 40:48-1 and N.J.S.A. 40-48-2, a governing body of a municipality may make and enforce ordinances, regulations, rules and bylaws not contrary to the laws of this State or the United States, as it may deem necessary and proper for the good of the government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by law; and

WHEREAS, neither the State of New Jersey’s regulation of therapists, N.J.S.A. 45:11-53, et seq., known as the “Massage and Bodywork Therapist Licensing Act”, nor the companion New Jersey Administrative Code provisions, N.J.A.C. 13:37A-1.1, et seq., which are designed to effectuate the statutory provisions, abrogate a municipality’s ability to regulate the opening and maintenance of massage parlors and the practices of massage therapists therein; and

WHEREAS, the Borough Council finds that the business of operating a massage parlor is business effecting the public health, safety and general welfare of the municipality and its inhabitants and that licensing the business is necessary to appropriately regulate these businesses and protect the public health, safety, and welfare.

THEREFORE, BE IT ORDAINED by the Council of the Borough of Kinnelon, in the County of Morris and State of New Jersey, as follows:

Section 1. The Revised General Ordinances of the Borough of Kinnelon shall be amended by the inclusion of new Chapter _____ which shall be entitled “Licensing and Regulation of Massage, Bodywork and Somatic Therapy Establishments,” and shall read, in its entirety, as follows:

Chapter _____

Licensing and Regulation of Massage, Bodywork and Somatic Therapy Establishments

§ ____-1. Purpose; definitions.

A. Purpose.

The purpose of this chapter is to protect the public health and general welfare by licensing and regulating establishments that provide Massage, Bodywork and Somatic Therapy services, as defined in this chapter and to more effectively prohibit the sale of services that threaten the health safety and welfare of the public.

B. Definitions.

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

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning stated herein unless their use in the text of this chapter clearly demonstrates different meaning. The word "shall" is always mandatory and not merely directory.

CHAIR MESSAGE ESTABLISHMENT

Any massage, bodywork and somatic therapy establishment which strictly limits its service to massages that are administered to clients who are seated in a massage chair and remain fully clothed in their own personal clothing for the duration of the service. Furthermore, no bare skin contact is made or permitted with the client, nor are any oils, creams or lotions applied to the client. The massage is strictly limited to the back, neck and shoulders.

MASSAGE, BODYWORK AND SOMATIC THERAPIES

Any systems of activity of structured touch which include, but are not limited to, holding, applying pressure, position 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 neuro-myo-facial 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 and 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.

§ ____-2. License required.

- A. No person, firm or corporation shall operate any establishment or utilize any premises in the municipality as or for a massage, bodywork and somatic therapy establishment unless or until there has been obtained a license for such establishment or premises from the Borough Council, in accordance with the terms and provisions of this chapter.
- B. No person shall practice massage or related therapies as a massage, bodywork or somatic therapist, employee or otherwise, within the Borough of Kinnelon unless he or she has a valid and subsisting massage, bodywork and somatic therapist's license issued to him or her by the New Jersey Board of Massage and Body Work Therapy, pursuant to the terms and provisions of N.J.S.A. 45:11-53 et seq.

§ ____-3. Designation of Health Department as implementing and enforcing Township agency; application for establishment license; requirements.

The Health Department is designated as the agency of the Borough responsible for the implementation and enforcement of this ordinance. Any person desiring a massage, bodywork and somatic therapy establishment license shall submit a written application for licensure on forms promulgated by the Health Department. The completed application shall be returned to the Health Department for processing. In addition to the completed application the applicant, who shall be the principal owner of the business, they may be required to submit additional documentation, including but not limited to a sketch, floor plan, building layout, diagram, zoning permit and/or Certificate of Occupancy as applicable to the application. The application form shall contain the following information:

- A. The business name and type of ownership of the business, i.e., whether sole proprietorship, partnership, corporation or any other form of organization formally recognized by the State of New Jersey. Proof of the individual or entity's registration with the State of New Jersey such as a Business Registration Certificate (BRC) must be provided.
- B. The trade name under which the business is to be conducted, if being used.
- C. The address and all telephone numbers associated with the business, including facsimile and email addresses, wherever 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 owner, manager and any other persons principally in charge of the operation of the business. Detailed job descriptions of those employees whose duties do not include those of a therapist must be included. It shall be the responsibility of the owner/operator to maintain an updated employee list and provide same to the Health Department upon request and make it available during all inspections. All employees must be in possession of a valid, photographic I.D. whenever they are on premises. Employees

must present the said I.D. upon request to any Health Department officials or other officers of the municipality when they are acting in their official capacity.

- E. Proof of current licenses issued by the State of New Jersey pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq. for all massage, bodywork and somatic therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment.
- F. The following personal information shall be provided in the application form for an individual owner or, if a corporation, for each officer and each director; if a partnership, including limited partners, for each partner; and for the manager or other person principally in charge of the operation of the business:
 - (1) The name, complete residence address and residence telephone number.
 - (2) Copy of a current driver's license or other government issued photo I.D.
 - (3) Two front-face portrait photographs taken within 30 days of the date of the application and shall be approximately 2 inches by 2 inches in size (passport size).
 - (4) The massage therapy or similar business history and experience, including, but not limited to, whether or not such person(s) has previously operated in this or another municipality or state, if operated under a license or permit. If so, whether such license or permit was ever denied, revoked or suspended and the reason for said action(s).
 - (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.
- G. Upon filing a completed application with the Health Department, the applicant, at the applicant's expense, shall be required to submit to a background check and fingerprinting by the municipal police department and/or a private vendor authorized by the State of NJ to perform such tasks. Upon receipt of the results of the fingerprint check and subsequent criminal history check, the Health Department shall notify the applicant of said results.
- H. The submitted application must be accompanied by a copy of the signed lease for the property location where the proposed massage establishment will be in operation. The applicant must be listed as the lessee on the lease.

§ ____-4. License fee and renewal fee; license term; reinspection fee.

- A. Every applicant for a license to maintain, operate or conduct a massage, bodywork shall pay an annual fee of \$500 at the time of new application and for each subsequent annual renewal.
- B. All fees for licenses under this Chapter shall be paid to the Health Department office prior to being considered for approval to operate. All fees are non-refundable and are not transferable. All licenses issued under this chapter are subject to a \$100. late fee if the license is not renewed by January 31st.

- C. Licenses shall be issued by the Borough after approval by the Borough Council for a term of one year commencing on January 1st and expiring December 31st. The license fee and expiration date of December 31st shall remain the same regardless of when during the year the license is issued.
- D. Should a reinspection of a massage establishment become necessary because of a conditional or unsatisfactory inspection rating, as they are defined in this chapter, the establishment shall be subject to a reinspection fee in an amount equal to the annual license fee for that establishment. The establishment shall be subject to a reinspection fee for each subsequent reinspection performed until the violations are corrected and the establishment is returned to a satisfactory rating. The fee shall be paid within 10 days of the notification of the said re-inspection fee requirement.

§ ____-5. Requirements for license approval

- A. The applicant for a massage, bodywork and somatic therapy establishment license is responsible to obtain all permits, licenses, certificates of occupancy and approvals that are applicable or required by the State of NJ and the municipality, including but not limited to the Construction Code Official, the Fire Bureau, the Police Department, and the Planning and Zoning Department. Written proof that the establishment is in compliance with all applicable requirements shall be provided to the Health Department by the applicant. Failure to do so will result in a denial of the application. For those establishments in operation who have not provided said written proof or are discovered to not be in possession of the required approvals, certificates, licenses and/or permits, the license to operate shall be suspended and the operation shall cease immediately until the establishment is in full compliance.
- B. All massage tables, bathtubs, shower stalls, steam or bath areas, restrooms and floors shall have surfaces which may be readily disinfected, and shall be maintained in a sanitary condition and regularly cleaned and disinfected by a method approved by the Health Department.
- C. Each massage, bodywork and somatic therapy area/room shall have an adequate area within each room for clients to store personal items.
- D. The owner or operator shall submit a disinfection/sterilization plan for non-disposable instruments and materials used in administering massages, bodywork and/or somatic therapies, including laundering procedures for linens, cloths, towels, garments, etc., to the Health Department for approval. The establishment must operate in compliance with the approved plans. Such non-disposable instruments and materials shall be disinfected, sterilized and/or laundered after use on each patron and stored in a clean and sanitary manner.
- E. A shower area, dressing area and restrooms for clients shall be provided within the facility; such areas shall be maintained in a clean and sanitary condition at all times. Doors to such dressing rooms, restrooms and shower areas shall open inward and shall be self-closing.
- F. Handwashing facilities as set forth in this chapter shall be operational and fully stocked with soap and paper towels.

§ ____-6. License validity/transferability.

- A. Any license granted under this chapter shall only be valid to the person to whom it was granted and for the location as indicated on the application.
- B. Licenses shall not be transferable between individuals, entities or locations.

§ ____-7. Suspension or revocation of establishment license.

- A. Massage establishment licenses may be suspended by the Health Officer acting on behalf of the Borough or revoked by the Borough Council for reasons that include but are not limited to the following causes.
 - 1. Fraud, misrepresentation or false statement in the establishment's license application.
 - 2. Fraud, misrepresentation or false statement made to the Health Officer or his/her designee or any duly appointed municipal police officer while operating the licensed business in the municipality.
 - 3. Fraud, misrepresentation or false statement made to customers or to the general public whether verbally, with signage or advertising, in any form, while operating the licensed business in the municipality.
 - 4. Conducting business within the municipality in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public, as determined by the Health Officer.
 - 5. The establishment is an existing or threatened menace to the public health as determined by the Health Officer.
 - 6. 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.
 - 7. The conviction of an employee of the establishment for a violation of the prohibited acts set forth in Section ____-12 shall create a rebuttable presumption that the owner/operator had actual or constructive knowledge of the violation resulting in the conviction and shall constitute cause for the suspension or revocation of the establishment license.
 - 8. The owner and/or operator or any employee refuses to permit, or hinders or obstructs the Health Officer, his/her designee or any duly authorized municipal police officer to inspect the premises or the operations therein at any time.
 - 9. For repeat violations of this chapter or for any violations related to using the premises for residential purposes, lodging or boarding, as determined by the Health Officer.
 - 10. For being posted unsatisfactory as a result of an inspection or complaint investigation.

- B. A person, firm, corporation, or other entity whose license has been revoked by the Borough Council or suspended shall close the establishment and request all patrons to vacate the premises and/or the establishment ceases all operations associated with and allowed by the suspended or revoked license. The establishment shall refrain from all business activities for which the license was obtained until the Health Department authorizes operations or parts thereof to commence or the Borough Council authorizes operations to commence at the conclusion of the appeal process that is set forth in this chapter.
- C. The licensee shall be entitled to a hearing before the Borough Council for the purpose of seeking reinstatement of a suspended or revoked license. The licensee shall submit a written request for the hearing to the Municipal Clerk's Office within five business days of the suspension or revocation. The Borough Council shall conduct the hearing no more than 15 business days from the date the written request was received. A business day shall be defined for the purposes of this chapter as any weekday, Monday through Friday, except for holidays in which municipal offices are closed.
- D. Written notice of the time and place of such hearing shall be served upon the licensee by the Municipal Clerk or his/her designee at least five business days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking, cancelling, or suspending such license. Notice may be given either by personal delivery thereof to the person identified on the license application or may be sent in a sealed envelope, addressed to the person and business address that appears on such license application, by simultaneously sending the notice both regular mail and certified mail, return receipt requested, via the United States Postal Service.
- E. At the hearing before the Borough Council, the licensee shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Borough Council, the complaint may be dismissed, or if the Borough Council concludes that the charges have been sustained and/or substantiated, it may uphold the revocation or suspension and deny reinstatement of the license or stipulate the conditions required for reinstatement of the license.
- F. If any such license shall have been revoked, neither the holder thereof nor any person acting for him or her, directly or indirectly, shall be entitled to another license to carry on the same business within the municipality.

§ ____-8. Display of license.

The massage, bodywork and somatic therapy establishment shall display its license as well as the 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. A two inch by two-inch, passport sized, color photo of the licensed therapist must be affixed to the displayed license of each and every massage, bodywork and somatic therapist employed by the establishment. In addition, all therapists on site must have in their possession a government issued photo I.D.

§ ____-9. 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.
- B. Price rates for all services shall be prominently posted in the reception areas 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.
- D. All massage, bodywork and somatic therapy establishments shall have clean laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- E. 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.
- F. All walls, ceilings, floors in service areas and pools, showers, bathtubs, sinks, steam rooms, laundry rooms, restrooms and massage tables must be constructed of durable, cleanable and non-porous materials which may be readily disinfected. All areas of the establishment shall be kept 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 and sanitized each day the business is in operation. Bathtubs and showers shall be kept dry, clean and sanitary at all times.
- G. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be from an approved source and kept in clean closed containers or cabinets. Single service products shall be used when available.
- H. Animals, except for Service dogs, shall not be permitted in the massage work area.
- I. Adequate hand-washing facilities for employees to maintain clean hands and arms during hours of operation shall be provided inside every room where massage therapy or other spa services are delivered to clients. Massage, bodywork and somatic therapists shall wash his or her hands and arms up to and including the elbows in warm running water, using a proper soap before administering a massage, bodywork or somatic therapy to a patron. All restroom and workstation hand wash sinks are to be stocked with liquid hand soap and paper towels. Dispensers for soap and paper towels are to be wall mounted. Restroom hand wash sinks must have signs conspicuously displayed with the following language: "Employees must wash hands after using the restroom". In the case of chair massage establishments in which hand washing facilities are not available, the therapist shall disinfect their hands with an anti-bactericidal hand sanitizer.
- J. No massage establishment shall knowingly serve any patron infected with any fungus or other skin infections, nor shall service be performed on any patron exhibiting skin inflammation or eruptions, provided that a duly licensed physician may certify that a person may be safely provided with a massage, bodywork or somatic therapy, prescribing the conditions thereof. No therapist may perform service if they themselves are infected with any fungus or other skin infections, skin inflammation or eruptions

unless a medical physician duly licensed by the State of New Jersey has certified that a therapist may safely provide the massage, bodywork or somatic therapy, prescribing the conditions thereof.

- K. A written disinfection plan for all linens, towels and reusable instruments used by the establishment must be approved by the Health Department, kept on site and available for review by the inspecting official at all times. The establishment must operate in conformance with the approved plan at all times.
- L. Client records must be kept for each and every client who receives services from the massage establishment. These records shall include at a minimum an intake form filled out by each customer to include their name, address, phone number, date of birth, date of service, the specific service they've received, the licensed therapist's full name, their NJ State Massage and Bodywork Therapist License number and the signature of the client. These records must be stored on the premises and available for review by the Health Department at all times for a period of not less than 3 years of the date the service was performed.
- M. Signage specifying the age restriction set forth in ____-12 H and the required record keeping requirements set forth in ____-9 L must be posted in English, at a minimum, and displayed conspicuously and clearly readable to the customer from the entrance of the establishment at all times.
- N. The massage establishment shall conform to and observe all applicable rules, regulations and prohibitions set forth by the NJ Board of Cosmetology.
- O. Adequate, clean and sanitary restrooms shall be provided for patrons during all hours of operation. In the event that male and female patrons are to be served simultaneously, separate restroom, bathing, dressing, locker and massage room facilities shall be provided. Doors to such restrooms shall open inward and shall be self-closing.
- P. The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and material shall be disinfected after each use.

§ ____-10. Inspections.

- A. The Health Department shall inspect each massage, bodywork and somatic therapy establishment granted a license under the provisions of this chapter as often as they deem necessary during the establishment's hours of operation and any other times when persons are on the premises for the purpose of determining whether the establishment is in compliance with the provisions of this chapter and/or any other applicable rules, regulations or laws.
- B. It shall be unlawful for any person to deny the Health Officer, his or her designee, or any certified or licensed municipal inspectors or sworn municipal police officers in the performance of their duties access to the premises or to hinder such officer or inspector in any manner.
- C. Inspection placards shall be posted in a conspicuous location where it may be readily observed at eye level by all patrons before or immediately upon entering the

establishment. The inspection placard shall reflect the level of compliance with this chapter. The inspection placards shall reflect one of three ratings as follows:

1. Satisfactory rating issued, at the discretion of the Health Department inspector, when establishments are largely or completely in compliance with this chapter;
2. Conditionally satisfactory rating issued, at the discretion of the Health Department inspector, when violations of this chapter are observed and documented;
3. Unsatisfactory rating issued, at the discretion of the Health Department inspector, when repeat, flagrant and /or serious violations of this chapter are observed and documented. An unsatisfactory rating will require the license to be suspended in accordance with §___-7 and the establishment or portions thereof operating under the said license to cease operations until all violations are corrected.

§ ___-11. Sleeping quarters.

No part of any massage, bodywork and somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage, bodywork and somatic therapy establishment except for customers in limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment. This provision shall not preclude the location of a massage, bodywork and somatic therapy establishment located in separate, independent, operating spaces of a building that houses businesses operating as a hotel, health club or other business.

§ ___-12. 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 State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency and obscenity, including the sale, uttering, exposing or public communication of obscene material; nor shall any owner or manager tolerate in his or her establishment any activity or behavior which violates this section.
- B. A conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such establishment, to the extent that it constitutes sufficient cause for the immediate revocation of the establishment license.
- C. The massage establishment shall not permit table showers or assisted bathing.
- D. 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.
- E. It shall be unlawful to advertise in a manner or in certain types of publications, websites or other media that indicates the services offered may be sexual in nature.

- F. No bulk food storage or meal preparation is permitted on premises. Re-heating of pre-made or prepackaged foods for immediate consumption by the employee during meal breaks is permitted.
- G. Personal effects, furniture, equipment, supplies or goods not specific or necessary to the operation shall not be permitted on the premises.
- H. No one under 18 years of age shall be served unless accompanied by a parent or legal guardian.
- I. Alcoholic beverages, and/or CBD, Cannabis, THC or other substances that alter consciousness shall not be stored nor consumed on the premises.
- J. Laundering is restricted to only those linens, outer protective uniforms, towels and linens used within the operation. The laundering of personal clothing and/or other items is prohibited. Personal clothing or other personal items may not be commingled with the linens or towels used in the operation nor shall personal clothing not specific to the operation be stored on the premises.
- K. Pest control chemicals or sprays are prohibited. Pest control services must be performed by NJDEP licensed pest control contractors.

§ ____-13. Exceptions.

The provisions of this section shall not apply to massage, bodywork or somatic therapies as follows:

- A. Those given in the office of a licensed physician, chiropractor or physical therapist; or
- B. Those given by a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or
- C. Those given by any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
- D. Those given by a licensed barber or cosmetologist/hairstylist limited to the areas of the face, neck, scalp or upper part of the body, or for manicurists and pedicurists, as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq;
- E. Chair massage establishment as defined in Section 213-1 of this chapter are exempt from 213-9 K. thru P.

§ ____-14. Violations and penalties.

In addition to the revocation or suspension of the license as set forth under this chapter, any person who violates any provision of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$2,000 or imprisonment for a term not to exceed 90 days or by a period of community service not to exceed 90 days.

§ ____-15. Enforcement Agent.

The enforcement agent for massage, bodywork and somatic therapy licenses shall be the Health Officer, or the Health Officer designee, or any other municipal official designated by the Borough Administrator.

§ ____-16. Right of entry.

It shall be the lawful right for the Health Officer and his/her designee and sworn municipal police officers or any other person acting under and by the authority of the Health Department to enter in and upon any premises in the exercise of the powers or in the fulfillment of its or their duties conferred or imposed by law or local ordinance and the rules and regulations thereunder. Any person hindering, obstructing, delaying, resisting, preventing or interfering with such right of access shall be deemed to violate the provisions of this article.

Section 2. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Adopted this ____ day of
_____, 2026.

Karen M. Iuele, Borough Clerk

James J. Freda, Mayor