

ORDINANCE NO. 166

AN ORDINANCE OF THE COUNTY OF BUCKS, PENNSYLVANIA TO REGULATE THE OPERATION OF MASSAGE THERAPY ESTABLISHMENTS AND PROMOTE FAIR LABOR PRACTICES

WHEREAS, the County of Bucks (the “County”) recognizes the positive role that massage and alternative therapy can play in improving the health and well-being of citizens.

WHEREAS, the County has seen a recent increase in the number of illegal massage or alternative therapy establishments promoting such unlawful conduct such as prostitution, sex trafficking and unfair labor practices.

WHEREAS, these types of illicit businesses often violate human trafficking and child abuse statutes, the Fair Labor Standards Act, state and local health codes, and laws intended to protect the health and safety of citizens.

WHEREAS, close regulation of Massage/Alternative Therapy Establishments will allow the County to be proactive in addressing what is becoming a significant issue adversely impacting the health, safety and welfare of the County and its citizens while encouraging best practices in the massage and alternative therapy industry.

NOW THEREFORE, it is hereby **ENACTED** and **ORDAINED** by the County of Bucks, Pennsylvania as follows:

I. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the following meanings ascribed to them:

“Massage/Alternative Therapy”

The application of a system of structured touch, pressure, movement, holding and treatment of the soft tissue manifestations of the human body in which the primary intent is to enhance the health and well-being of the client without limitation, except as provided in this act. The term includes the external application of water, heat, cold, lubricants or other topical preparations, lymphatic techniques, myofascial release techniques and the use of electro-mechanical devices which mimic or enhance the action of the massage techniques. The practice of an individual who uses touch, words and directed movement to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement, while engaged within the scope of practice of a profession with established standards and ethics. The term(s) does not include the diagnosis or treatment of impairment, illness, disease or disability; a medical procedure; a chiropractic manipulation, adjustment, physical therapy mobilization; manual therapy; therapeutic exercise;

electrical stimulation; acupuncture; ultrasound or prescription of medicines for which a license to practice medicine, chiropractic, physical therapy, occupational therapy, podiatry or other practice of the healing arts is required, or any other area licensed by the Commonwealth of Pennsylvania.

“Owner”

Any individual who has direct or indirect ownership interest in a Regulated Establishment.

“Regulated Establishment”

Any place in the County where Massage/Alternative Therapy is administered for the payment of a fee or other compensation or consideration, thus requiring a permit under this ordinance. Such business does not include a hospital, nursing home, medical clinic, a salon with fewer than two therapy rooms whose primary services are manicure, pedicure, or hair grooming, or the office of a physician, surgeon, physical therapist, chiropractor, osteopath or acupuncturist currently licensed as such by the Commonwealth of Pennsylvania.

“Sexual or Genital Area”

The genitals, pubic area, anus, or perineum, and the vulva of a female.

“Therapy Room”

Any separate area within a Regulated Establishment where Massage/Alternative Therapy Services are to be rendered.

II. Requirements, Prohibitions, and Rights of Entry.

- A. Every Regulated Establishment shall meet the following requirements:
 - (1) Only individuals licensed and registered by the Commonwealth of Pennsylvania as a massage therapist shall provide Massage/Alternative Therapy Services at the respective Regulated Establishment.
 - (2) Regulated Establishments may commence operation no earlier than 7:00 a.m. The hours of operation shall extend no later than 10:00 p.m.
 - (3) Regulated Establishments shall maintain an adequate supply of clean towels, linens and coverings. Towels, linens and coverings shall not be used by or on more than one patron unless they have first been laundered and disinfected. Disposable towels, linens and coverings shall not be used by or on more than one patron. Soiled towels, linens and coverings shall be deposited in approved receptacles; disposable items shall not be deposited in the same receptacle as non-disposable items.

- (4) Employees shall wash/disinfect their hands immediately prior to and subsequent of the administration of any therapies and shall observe hygiene practices as set forth in the Pennsylvania Massage Law, 65 P.S. § 627. 1 et seq., and accompanying regulations in Chapter 20 of the Pennsylvania Code.
- (5) Instruments used in administering therapies shall not be used on more than one patron unless they have first been disinfected. Table pads and reusable table coverings shall be disinfected after each use.
- (6) Regulated Establishments shall be kept in good repair and general cleanliness.
- (7) Regulated Establishments shall have an approved water supply with enough potable water for the needs of the Regulated Establishment and shall be provided from a source or sources constructed and operated in accordance with the Bucks County Health Department's requirements and the Pennsylvania Safe Drinking Water Act. Those facilities using a well as a water supply shall either comply with Safe Drinking Water Act monitoring and sampling requirements or shall install and maintain permanent and properly designed disinfection on the water supply and any other water sampling deemed necessary by the Bucks County Health Department. Construction of the well shall meet Bucks County Health Department Rules and Regulations Governing all Wells and their Construction Specifications.
- (8) Regulated Establishments shall have approved sewage disposal systems. All sewage, including graywater, shall be disposed of by a public sewerage system or by a sewage disposal system constructed, maintained and operated according to the Bucks County Health Department's sewage and public health nuisance rules and regulations and Act 537. If public sewer is available, it shall be used.
- (9) Regulated Establishments shall have at least one restroom for employee and/or patron use unless a waiver is obtained from the Bucks County Health Department.
- (10) Regulated Establishments shall have proper garbage storage and refuse. All garbage and refuse containing food wastes shall be kept in durable, easily cleanable, leak-proof, insect and rodent proof, non-absorbent, rust and corrosion resistant containers provided with tight fitting lids, doors and/or covers. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates. Containers stored outside, including dumpsters and compactors, shall be kept covered when not in actual use. Garbage and refuse shall be placed in plastic bags and sealed prior to placement in outside dumpsters or containers to minimize insect and rodent problems. All other refuse shall be stored in containers, rooms or areas of

sufficient number and size in a manner to prevent animal and/or insect problems and create a public health nuisance. Dumpsters or other trash storage containers shall be located on an impervious surface, have tight fitting lids and drain plugs (if applicable).

- (11) Regulated Establishments shall have proper collection of garbage and refuse. The collection of all garbage and refuse shall be conducted as frequently as needed to prevent the development of odor, the attraction of animals and insects, and the accumulation of garbage and refuse.
- (12) Effective measures intended to control the presence of rodents, flies and other insects or vectors on the premises shall be utilized. Pesticide application, when necessary, shall be conducted by a certified pest control applicator/operator and in accordance with the pesticide label. The premises shall be kept in such condition as to eliminate the harborage, food and water conditions conducive to insect, rodent or other vector infestations.
- (13) Therapy rooms shall be at least 50 square feet of floor area and shall be accessible only by a door incapable of being locked from either the exterior or the interior. While Massage/Alternative Therapy Services are being provided, therapy rooms shall maintain a light level of no less than 20 footcandles as metered at three feet above the surface of the floor (for illustrative purposes only, such light level is equivalent to light from a single forty-watt fluorescent lightbulb in the fifty-square-foot room). Therapy rooms shall be capable of attaining adequate brightness in excess of 20 footcandles for the purpose of inspections and cleaning.
- (14) A recognizable sign identifying the Regulated Establishment's name shall be visible to the public from the outside of the business.
- (15) Regulated Establishments shall have windows which are not to be fully obstructed, unless a waiver is obtained from the Bucks County Health Department.
- (16) All clients shall enter and exit exclusively through the front door, unless a waiver is obtained from the Bucks County Health Department.
- (17) Price rates charged for any and all therapies shall be posted for view on the internet on a site registered with the County, in a brochure, or on display in the Registered Establishment, and no charges may be made other than in accordance with such posted rates. All payment for services, including gratuity, shall be conducted exclusively at a designated reception area.
- (18) All licenses issued by the Municipality, County, or Commonwealth of Pennsylvania shall be on display and available for inspection.

B. Unlawful Conduct.

- (1) It shall be unlawful for any owner or employee of a Regulated Establishment to expose their sexual or genital area to any customer or other person.
- (2) It shall be unlawful for any owner or employee of a Regulated Establishment to place their hands upon, touch, fondle or otherwise have any physical contact with a sexual or genital area of any other person or to offer to so touch any person in a sexual or genital area.
- (3) It shall be unlawful for any owner or employee of a Regulated Establishment to touch the breast of a female without obtaining written consent as required by Pa Code §20.42(7).

C. Access and Entry.

- (1) No person under the age of 16 years of age shall be permitted to enter or remain on the premises or receive any Massage/Alternative Therapy unless accompanied at all times by a parent or legal guardian. Unaccompanied minors who are 16 or 17 years of age may be present to receive Massage/Alternative Therapy Services provided that the Regulated Establishment has received authorization from a parent, guardian, or health care professional assenting permission for services.
- (2) The Regulated Establishment shall maintain a list of clientele and services provided for not less than 90 days after the date of service.
- (3) An owner or duly authorized manager shall be on duty at all times during the hours a Regulated Establishment is open for business.
- (4) No patron or persons, other than employees of the Regulated Establishment, shall remain on the premises more than one hour after closing. Cleaning, janitorial or other maintenance workers shall be permitted to be on premises after closing if providing that type of specified service.
- (5) When it is necessary to make a routine inspection, or whenever a County official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Ordinance, County officials are authorized to enter the structure or premises during the hours that such Regulated Establishment is open for business or occupied during such hours as permitted above. If entry is denied, County officials may seek the assistance of the Bucks County Law Department, Bucks County District Attorney's Office and Detectives, building and/or code inspectors of the local municipality, or any federal, state or local law enforcement in obtaining a remedy provided by law, including securing an administrative warrant, to secure entry.

- (6) If an official from the Bucks County Health Department or Office of Consumer Protection/Weights and Measures determines that a Regulated Establishment is in violation of this ordinance and that a return inspection will be necessary to ensure compliance, the official may assess a compliance fee pursuant to the fee schedule for “Non-Food Regulated Services” in the Bucks County Department of Health Environmental Fee Schedule.

III. License of Regulated Establishments

A. Licensure Requirements for Regulated Establishments.

- (1) All Regulated Establishments shall register with and be licensed by the Bucks County Health Department. All Massage Therapists practicing Massage/Alternative Therapy at a Regulated Establishment shall be licensed by the Commonwealth of Pennsylvania as a massage therapist. An owner of a Regulated Establishment shall register their business as well as all Massage Therapists and must provide copies of the licenses issued by the Commonwealth of Pennsylvania for all Massage Therapists to the Bucks County Health Department on a fully completed application provided by the Bucks County Health Department.
- (2) Applications for licenses for Regulated Establishments shall be directed to the Bucks County Health Department. Applicants shall cooperate with any investigation conducted pursuant to the provisions of this subsection, including signing a release permitting the County to conduct or request a criminal background check, and shall permit access to the proposed place of business and facilities in conjunction with such investigation by the County. Applications shall include proof that all other required business licenses have been obtained and submit one form of identification issued by either the federal or state government containing a photograph for the applicant and all employees. No construction or major renovations for a proposed Regulated Establishment may begin until the applicant submits to the Bucks County Health Department for review and approval, properly prepared plans and specifications for new construction, remodeling or conversion.
- (3) The biennial license fee shall be as follows: \$100 for a Regulated Establishment with one therapy room, \$200 for a Regulated Establishment with two therapy rooms, and \$300.00 for a Regulated Establishment with three or more therapy rooms. After January 1, 2024, the biennial license fee may be adjusted by resolution of the Board of Commissioners.

- B. Granting of license. Within 60 days of the receipt of an application, required documents set forth above and fee, the Bucks County Health Director or their designee shall either grant or deny the license applied for by the applicant. The

license shall be granted, provided that the Regulated Establishment meets all Minimum Requirements set forth above, unless the Bucks County Health Department makes either of the two findings:

- (1) That the applicant failed to provide the Health Department for review and approval, properly prepared plans and specifications for new construction, remodeling or conversion of the building that would house the Regulated Establishment; or
- (2) That the applicant or any employees have been convicted of or entered a plea of guilty or nolo contendere to a criminal offense involving any of the following: human trafficking; sexual or indecent assault; prostitution; exploitation, corruption, endangering, or other victimization of a minor (including child pornography offenses), or; violations of state or federal racketeering and corrupt organizations laws, including but not limited to Chapter 96 under Title 18 of the U.S. Code and Section 911 et seq., of the Pennsylvania Criminal Code pursuant to Title 18 .

In the event that the Bucks County Health Department, in its discretion, denies in writing the license on the basis of one of these, the applicant shall have the right to appeal the denial within 10 days and request a hearing before a Hearing Officer designated by the Board of Commissioners. The applicant will submit a fee for a hearing request in accordance with the fee schedule for “Non-Food Regulated Services” in the Bucks County Department of Health Environmental Fee Schedule before a hearing date is set. Written notice of the hearing shall be given to the applicant and the Bucks County Health Department. During the hearing, the applicant shall present evidence in support of its appeal and may be represented by an attorney. The hearing officer will render a decision on the appeal within 60 days of the hearing.

- C. Sale or Transfer of License. No license issued under the provisions of this ordinance shall be transferable or assignable.
- D. Expiration of License. All licenses issued pursuant to the provisions of this ordinance shall expire two years after the date of issuance. No later than 60 days before the expiration, licensees shall make application for renewal of said license.
- E. Revocation of License. Every license issued under the provisions of this ordinance is subject to revocation for violation of any of the provisions of this ordinance. Said license may be revoked by the Bucks County Health Department after notice of the basis for such revocation. Notice of revocation shall be given in writing or on an inspection report and must be posted upon the entrance to the Regulated Establishment. The notice shall advise the license holder of the right to appeal the revocation. The license holder shall have the right to appeal from such proposed revocation within 10 days and request a hearing before a Hearing Officer designated by the Board of Commissioners. The license holder shall submit a fee for a hearing request in accordance with the fee schedule for “Non-Food Regulated Services” in the Bucks County Department of Health Environmental Fee Schedule before a

hearing date is set. Written notice of the hearing shall be given to the license holder and the Bucks County Health Department. During the hearing, the license holder shall present evidence in support of its appeal and may be represented by an attorney. The hearing officer will render a decision on the appeal within 60 days of the hearing.

- F. Emergency Closure. In the event of an immediate public health emergency, such as sewage overflow or rodent infestation the Regulated Establishment may be immediately closed by inspection.

IV. Effectiveness

- A. Violations and Penalties. In addition to the refusal or revocation of a license and the assessment of compliance fees as provided under this ordinance, any violation of this ordinance shall be enforced by action brought before a District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, firm or corporation who violates any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 and not more than \$1,000. Any person, firm or corporation who violates any provision of Section II. B. (Unlawful Conduct) shall, upon conviction thereof, be sentenced to imprisonment for a term not to exceed 10 days. Each day that a violation of this ordinance continues, or each section of this ordinance which shall be found to have been violated, shall constitute a separate offense. The doing of any act or thing prohibited by any provision of this ordinance, or the failure to do any act or thing as to which any provision of this ordinance creates an affirmative duty, shall constitute a violation of this ordinance punishable as herein stated.
- B. Effective Date. This ordinance shall become effective 180 days after an approving vote by the Bucks County Board of Commissioners.
- C. Time for Compliance. Regulated Establishments operating in the County as of the time of the effective date of this ordinance shall have 120 days from said effective date in which to apply for a license as required by this ordinance. All such Regulated Establishments shall have a grace period to come into compliance with section II of this ordinance. Corrections and grace period(s) will be noted on the initial inspection.
- D. Repealer. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to resolve the inconsistency.

- E. Severability. The provisions of this ordinance are declared to be severable. If any provision of this ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this ordinance.

ORDAINED AND ENACTED this ____ day of _____, 2022.

BOARD OF COMMISSIONERS,
BUCKS COUNTY, PENNSYLVANIA

Robert J. Harvie, Jr. (Chair)

Diane Ellis-Marseglia, LCSW (Vice-Chair)

Gene DiGirolamo (Secretary)

Attest:

Gail Humphrey, Chief Clerk