

TOWNSHIP OF MONTVILLE

BOARD OF HEALTH ORDINANCE NO. 2020-01

AN ORDINANCE OF THE TOWNSHIP OF MONTVILLE BOARD OF HEALTH, COUNTY OF MORRIS, AND STATE OF NEW JERSEY REPEALING CHAPTER 421, MASSAGE AND BODYWORK THERAPY ESTABLISHMENTS, OF THE CODE OF THE TOWNSHIP OF MONTVILLE, NEW JERSEY

BE IT ORDAINED, by the Board of Health of the Township of Montville, in the County of Morris, and State of New Jersey, as follows:

SECTION 1. Chapter 421, Massage and Bodywork Therapy Establishments, of the Code of the Township of Montville is hereby repealed, in its entirety.

Chapter 421. Massage and Bodywork Therapy Establishments

[HISTORY: Adopted by the Board of Health of the Township of Montville 11-14-2012 by Ord. No. BOH-2012-01. Amended 11-14-2016 by Ord. No. BOH-2016-01.]

§ 421-1. Definitions.

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

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, bodywraps, the use of moist hot and cold external applications, external applications of herbal or topical preparations not classified as prescription drugs, movement and neuromyofacial education and education in self-care and stress management. Massage and bodywork 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 et seq.

MASSAGE, BODYWORK, AND SOMATIC THERAPIST EMPLOYER – Any individual or entity that employs another person to engage in providing massage, bodywork or somatic therapy.

MASSAGE, BODYWORK, AND SOMATIC THERAPY ESTABLISHMENT – Any establishment wherein massage and/or bodywork therapies are administered or are permitted to be administered, when such therapies are administered for any form of consideration.

§ 421-2. Permit required.

- A. No person, firm or corporation shall operate any establishment or utilize any premises in the Township of Montville as or for a massage, bodywork or somatic therapy establishment unless or until there has first been obtained a permit for such establishment or premises from the Township of Montville Health Department in accordance with the terms and provisions of this section.
- B. No person shall in the Township of Montville practice massage or related therapies as a massage, bodywork or somatic therapist, employee or otherwise, unless he or she has a valid and subsisting massage and bodywork therapist's license issued to him or her by the New Jersey Board of Massage and Bodywork Therapy pursuant to the terms and provisions of the Massage and Bodywork Therapist Certification Act, N.J.S.A. 45:11-53 et seq.
- C. No person or entity shall employ a massage, bodywork, or somatic therapist as an employee, unless the employee has a valid and subsisting New Jersey Board of Massage and Bodywork Therapy therapist's license.
- D. No person or entity shall employ a massage, bodywork, or somatic therapist as an employee, unless that person or entity has a valid and subsisting New Jersey Board of Massage and Bodywork Therapy employer's registration.

§ 421-3. Application for massage and bodywork therapy establishment permit; requirements.

- A. Any person desiring a massage, bodywork or somatic therapy establishment permit shall file a written application with the Montville Township Health Department upon a form to be furnished by the Health Department. All permit applications are subject to administrative review by the Health Department prior to being presented to the Board of Health for review and approval. The completed application form shall contain at a minimum the following information:
 - 1. The business name and type of ownership of the business, i.e., whether individual, partnership, corporation or any other form of business organization.
 - 2. The trade name, style and designation under which the business is to be conducted.

3. The address where the establishment will be located, all telephone numbers, including facsimile, where the business is to be conducted, and email address for the applicant.
4. A list and full description of all massage, bodywork and somatic therapy services to be offered.
5. 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 or other person principally in charge of the business. It shall be the responsibility of the permit-holder to maintain an updated employee list and provide the same to the Health Department. The Health Department shall be notified in writing within seven (7) days, transmitted by regular mail, email, or facsimile, of any and all changes to the employee list. The employee list shall be made available during all inspections of the establishment.
6. A sworn statement attached to the employee list required above 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, N.J.S.A. 45:11-53 et seq.
7. Written verification from a physician licensed to practice in the State of New Jersey for each therapist to be employed at the establishment showing that the therapist has been examined by the physician and found at the time of the examination to be free of any contagious or communicable disease that would disqualify the applicant from performing massage, bodywork, and somatic therapy, and showing that the examination was conducted within thirty (30) days prior to the submission of the application. Such written verification must be submitted to the Health Department, transmitted by regular mail, email, or facsimile, for each new therapist to be employed at the establishment, prior to the start of their employment at the establishment.
8. A written disinfection plan for all linens, towels, and reusable instruments used by the establishment, and all surfaces within the establishment.
9. The following personal information concerning the applicant, 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 applicant name, complete residence address, residence telephone number, and email address.

- b. The two previous residence addresses immediately prior to the present residence address of the applicant.
 - c. A copy of a current driver's license or other government-issued photo identification.
 - d. 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.
 - e. The massage, bodywork or somatic therapy or similar business history and experience, including, but not limited to, whether or not such person has previously operated or is currently operating, in this or another municipality or state, under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefor and the business activities or occupations subsequent to such action or denial, suspension or revocation.
 - f. All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- B. In addition to the completed application, the applicant, who shall be a principal of the business, 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.
- C. In addition to the completed application, the applicant shall provide proof of General Liability insurance, coverage of which shall conform to industry standards. This insurance policy shall be maintained at all times by the establishment.
- D. In addition to the completed application, the applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Montville Township Police Department. Upon filing an application for a permit with the Health Department, the applicant shall respond to the Montville Township Police Department's Records Bureau with a current and valid driver's license or other government-issued photograph identification. The applicant shall be photographed and be provided with a fingerprint form from a fingerprint vendor authorized by the State of New Jersey. The applicant, at the applicant's expense, shall respond to the authorized fingerprint vendor's location for a fingerprint check. Upon receipt of the results of the fingerprint check and subsequent criminal history check, the Montville Township Police Department shall notify the Health Department of those results. The Health Department shall then notify the applicant of those results.
- E. In addition to the completed application, the applicant shall provide proof of ownership of the property where the establishment will be operated, or provide a

copy of the signed lease agreement for the property location where the proposed massage, bodywork, or somatic therapy establishment will be operated. The applicant must be listed as the lessee on the lease agreement.

- F. All changes in ownership of ten (10) percent or more, whether personal or incorporated, shall be reported to the Health Department, transmitted by regular mail, email, or facsimile, within ten (10) days of such change occurring.
- G. The Board of Health may refuse, after notice, to grant a permit. Reasons for refusing to grant a permit include, but are not limited to, the following:
 - 1. Fraud, misrepresentation, false statement, or omission of any required information in the application for the establishment permit.
 - 2. The conviction of an employee of the establishment for a crime or disorderly person offense involving moral turpitude.
 - 3. The conviction of an owner/operator, manager, or any employee for a crime or disorderly person offense involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, or any crime involving dishonesty.
 - 4. Failure to execute a waiver and consent to allow a fingerprint and criminal background check by the Montville Township Police Department.

§ 421-4. Building requirements, inspections.

- A. The Health Department, upon receiving Board of Health approval of an application for a massage, bodywork and somatic therapy establishment permit, shall refer the application to the Building Department, Fire Department, Police Department, Zoning Department, and Planning Department and any other Department deemed necessary by the Health Department. Such departments shall make written recommendations to the Health Officer or their designee and any or all other departments concerning compliance of the establishment with all applicable municipal and state codes.
- B. No massage, bodywork, or somatic therapy establishment permit shall be issued until and unless the establishment satisfactorily passes inspections by the Health Officer or their designee, the Construction Code Official, the Fire Official, or any other Township official deemed necessary by the Health Department.
- C. 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 have non-porous surfaces which may be readily sanitized, and shall be

maintained in a sanitary condition and regularly cleaned and sanitized by a method approved by the Health Department.

2. Adequate bathing, dressing and locker facilities shall be provided for the patrons to be served at any given time. In the event that male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.
3. The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.
4. Each massage, bodywork, and somatic therapy area/room shall be equipped with a hand-wash sink supplied with soap, paper towels, hot and cold running water, and waste receptacle. Soap and paper towel dispensers shall be securely affixed to a solid surface such as a wall or countertop. Common towels are prohibited.
5. All restrooms must be provided with a toilet, a supply of toilet paper, a hand-washing sink, a wall-mounted soap dispenser, a wall-mounted paper-towel dispenser, and signs posted prominently in a conspicuous area with the following language verbatim: "Employees must wash hands after using the restroom". All restrooms and fixtures contained therein shall be functional, in good repair, and maintained in a sanitary condition at all times.
6. Each massage, bodywork, and somatic therapy area and/or room shall be equipped with an adequate area for clients to store clothing and/or personal items during therapy sessions.
7. The public entrance to the establishment and any door leading to areas wherein rooms or areas in which massage, bodywork, or somatic therapy work areas are located shall remain unlocked while the establishment is open for business. Remote locking/unlocking systems and/or intercom systems to permit entry into the establishment are prohibited.

§ 421-5 Transferability; Permits, fees, penalties

- A. Permits granted under this Chapter are only valid to the applicant and address to whom it was granted, and are not transferable in any way. A new permit must be obtained in the event of the sale or other transfer of the establishment.
- B. Every application for a permit to maintain, operate, or conduct a massage, bodywork and somatic therapy establishment must be accompanied by the permit fee as set forth in Chapter 169, Fee Schedule.

- C. All permits issued under this Chapter shall expire each year on December 31, unless sooner suspended or revoked.
- D. All permits issued under this Chapter are subject to a fifty (50) dollar late fee for failure to renew the permit with payment by January 15 of each calendar year.
- E. All permits are subject to immediate suspension and closure as described in § 421-6 for failure to renew the permit with the full permit fee by January 31 of each year.
- F. Should a re-inspection of a massage establishment become required as determined by the Health Officer or their designee because of violations observed during an initial inspection, a re-inspection fee of two hundred and fifty (250) dollars shall be charged to the establishment for each subsequent re-inspection, until all violations have been abated. The re-inspection fee must be paid by the establishment to the Health Department within ten (10) business days of the date the re-inspection fee was issued. All permits are subject to immediate suspension and closure as described in § 421-6 for failure to remit the re-inspection fee in full within ten (10) business days of the date the re-inspection fee was issued.
- G. If any violations found are determined by the Health Officer or their designee to be repeat violations for any inspection of the establishment conducted within the previous two (2) years, then a repeat violation penalty of one hundred and fifty (150) dollars shall be charged to the establishment for each such repeat violation. The penalty must be paid by the establishment to the Health Department within ten (10) business days of the date the repeat violation penalty was issued. All permits are subject to immediate suspension and closure as described in § 421-6 for failure to remit the repeat violation penalty in full within ten (10) business days of the date the re-inspection fee was issued.

§ 421-6. Inspections.

The Department of Health, and the Fire Department, shall, from time to time, at least once each year, make an inspection of each massage, bodywork and somatic therapy establishment granted a permit under the provisions of this Chapter, for the purpose of determining whether the provisions of this section and/or applicable rules, regulations, ordinances, and laws are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any massage, bodywork, or somatic therapy establishment or employee thereof to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

§ 421-7. Display of permit and license.

- A. All massage, bodywork and somatic therapy establishments shall display the permit issued under this Chapter prominently in an open and conspicuous place on the premises of the establishment near the public entrance.
- B. The State license of each and every massage, bodywork, and somatic therapist employed in the establishment must be posted prominently in an open and conspicuous area on the premises of the establishment near the public entrance. A two (2) inch by two (2) inch passport sized color photograph of each licensed therapist must be affixed to the displayed license of each and every massage, bodywork and somatic therapist employed by the establishment.
- C. Each and every massage, bodywork and somatic therapist employed in the establishment shall have in their possession at all times while on the premises government-issued photograph identification, and said identification must be available for review.

§ 421-8. Requirements.

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

- A. Every portion of the establishment, including appliances and apparatus, shall have surfaces which can be readily disinfected, and which must be maintained in a clean and operated in a sanitary condition.
- B. The establishment shall have separate rooms for conducting massage, bodywork, and somatic therapies. Each room shall have floor-to-ceiling walls and a closable door.
- C. Each room of the establishment in which massage, bodywork, or somatic therapy is conducted shall have a functional hand-washing sink, provided with hot and cold running water, wall-mounted soap dispenser, and wall-mounted paper-towel dispenser.
- D. Each room of the establishment in which massage, bodywork, or somatic therapy is conducted shall have an adequate area within the room for clients to store personal items during therapy sessions.
- E. With the exception of guide animals, hearing animals, and service animals, no animals shall be permitted in the establishment.
- F. Price rates for all services shall be prominently posted in an open and conspicuous area on the premises of the establishment near the public entrance.

- G. A written exclusion policy shall be kept on the premises stating that the establishment shall not knowingly serve any patron infected with any fungus or other skin infections, nor perform any service on any patron exhibiting skin inflammation or eruptions, provided that a duly licensed physician may certify that a person may be safely provided with massage, bodywork, or somatic therapy prescribing the conditions thereof. This written exclusion policy shall be prominently posted in an open and conspicuous area on the premises of the massage, bodywork and somatic therapy establishment near the public entrance.
- H. Client intake records must be kept for each and every client who receives services from the massage, bodywork, and somatic therapy establishment. These intake records must be stored on the premises, and must be available for review by the Health Department and Police Department for a period of not less than seven (7) years of the date that the service was performed. These intake records shall include an intake form filled out by each client to include at a minimum:
1. Client name
 2. Client residence address
 3. Client phone number
 4. Client date of birth
 5. Date
 6. Signature of client
 7. Client health history, including any medical conditions which may contraindicate massage, bodywork or somatic therapy.
- I. Client service records must be kept for each and every client who receives services from the massage, bodywork, and somatic therapy establishment. These service records must be stored on the premises, and must be available for review by the Health Department and Police Department for a period of not less than seven (7) years of the date that the service was performed. These service records shall include an service form filled out by the therapist, to include at a minimum:
1. Date of service
 2. Description of type of service
 3. Therapist's full name
 4. Therapist's State Massage Therapist License number

- J. The establishment shall post signage specifying the age restriction of patrons and the client record-keeping requirements in English, prominently in an open and conspicuous area on the premises of the establishment near the public entrance.
- K. The written disinfection plan submitted with the permit application for the establishment shall be kept on the premises and available for review by the Health Department at all times. The employees of the massage, bodywork, and somatic therapy establishment shall demonstrate understanding of and compliance with the written disinfection plan to the Health Department at all times. The establishment shall comply with all parts of the written disinfection plan at all times.
- L. All employees, including massage, bodywork and somatic therapists, shall wear nontransparent outer garments. Dressing rooms must be available on the premises of the establishment. Doors to such dressing rooms shall be self-closing.
- M. All massage, bodywork and somatic therapy establishments shall be provided with clean linens (including, but not limited to, laundered sheets and towels) in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner. All linens shall either be laundered on the premises of the establishment with properly functioning commercial-grade washer and drying appliances, or shall be laundered by a professional linen supply service, the contract of which shall be made available to the Health Department for review at any time.
- N. 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.
- O. 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 and sanitized each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned and sanitized each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned and sanitized after each use. When carpeting is used on the floors, it shall be kept dry, clean and sanitary.
- P. 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 that dispense individual portions of the material in a sanitary manner that prevents contamination of the remaining contents of the container.
- Q. Each massage, bodywork and somatic therapist shall wash his or her hands and arms up to and including the elbows with soap and hot running water, prior to administering any massage, bodywork, or somatic therapy to each client.

- R. All massage, bodywork, and somatic therapy establishments and employees thereof shall at all times provide access to a sanitary restroom for patrons of the establishment.
- S. If ordered closed by the Health Department, the massage, bodywork, and somatic therapy establishment must immediately cease operations and close to the public, and must remain closed to the public and may not resume operations until the order to close is lifted by the Health Department.
- T. Massage, bodywork, and somatic therapy establishments may only operate each day between the hours of 7:00 a.m. and 10:00 p.m.
- U. The massage, bodywork, and somatic therapy establishment shall observe and conform to all applicable rules, regulations, and prohibitions set forth by the NJ Board of Massage and Bodywork Therapy.

§ 421-9. Prohibited acts.

- A. No owner of a massage, bodywork, or somatic therapy establishment or any employee thereof shall tolerate in any massage, bodywork, or somatic therapy 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 or exposing and public communication of obscene material; laws which related to the commission of sodomy, adultery and proscribing fornication, nor shall any owner or employee tolerate in any massage, bodywork, or somatic therapy establishment tolerate any activity or behavior which violates this section.
- B. Any 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 suspension or revocation of the establishment's permit.
- C. The owner, manager, or any employee of the massage, bodywork, or somatic therapy establishment shall not permit the following upon the premises:
 - 1. The presence or use of table showers.
 - 2. Ear candling.
 - 3. Any and all procedures that involve ear picks, ear scoops, or ear spoons.
 - 4. Cupping, or applying the open end of a vessel of glass or other material onto the client's skin and utilizing a heating element to heat the vessel.

5. Any activities or therapies that utilize any form of terrestrial or aquatic animals during therapy, including, but not limited to, fish foot spas.
6. Any activities or therapies that utilize animal waste or the use of any products that contain animal waste as an ingredient.
7. Colon cleansing.
8. Electrical muscle stimulation.
9. Any materials, paraphernalia, or acts depicting, promoting, or associated with sexual activity.
10. Controlled dangerous substances or illegal drugs.
11. Alcoholic beverages.
12. The use of any part of the establishment as sleeping quarters. The provision shall not preclude the location of a massage, bodywork, or somatic therapy establishment in separate quarters of a building housing a hotel or other separate businesses or clubs.
13. Any owner, operator, employee or patron knowingly placing their hand upon or touching 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, and/or any owner, manager, or employee performing or offerering to perform any act which would require the touching of any other person's sexual or genital area.
14. Any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not limited to, laws proscribing prostitution indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material; laws which relate to the commission of sodomy, adultery and proscribing fornication, or the tolerance by the owner, manager or any employee of the establishment any activity or behavior which violates this section.
15. The application of any pest control chemicals by any person other than a Commercial Pesticide Applicator licensed by the New Jersey Department of Environmental Protection.
16. Laundering of any personal items belonging to the owner, manager or any employee upon the premises of the establishment, or commingling any personal items with linens laundered by a professional linen supply service.
17. Storage on the premises of excessive personal items belonging to the owner, manager, or any employee of the establishment.

18. Bulk food storage, cooking apparatus, or meal preparation on the premises of the establishment.
19. The presence of any individual under 18 years of age, unless accompanied by a parent or legal guardian.
20. Any therapy performed on any individual under 18 years of age without the express written authorization of, and presence of, a parent or legal guardian.
21. The presence upon the premises of the establishment of any therapist infected with any fungus, skin infection, skin inflammation, skin eruption, or any communicable disease, and/or tolerating any such therapist to perform any massage, bodywork, or somatic therapy on any client or other person upon the premises of the establishment.
22. The presence of any persons upon the premises who are not necessary to the operation of the establishment.
23. Removing any signage posted by any Township Department upon the premises of the establishment.
24. Placing, publishing, distributing, or causing to be placed, published or distributed any print or electronic advertising material that depicts any portion of the human body that would reasonably suggest to prospective clients that any services are available other than those therapies described in the permit application.
25. Indicating in text in any print or electronic advertising material that any services are available other than those therapies included in the permit application.
26. Depicting in any print or electronic advertising material any persons dressed in such a manner or behaving in such a manner as to suggest that they or the establishment are engaged in keeping or residing in a house of ill repute, soliciting of a lewd or unlawful act, prostitution or pandering.

§ 421-10. Suspension or revocation of permit, closure.

- A. The Health Officer or their designee may at any time suspend any permit if it finds that a subsequent health hazard or nuisance has arisen and/or that there is a failure to comply with any part of this Chapter. Upon suspension of the permit, the establishment must immediately cease operations, and may not resume operations until the suspension of the permit has been lifted by the Health Department. The suspension of a permit may only be lifted after all of the violations have been abated to the satisfaction of the Health Officer or their designee, all applicable fees and penalties have been remitted in full to the Health Department, and a suspension hearing with the Health Officer has been conducted.

- B. Should the Health Officer find, determine, or have reason to believe that a permit should be permanently revoked, then in such event the Health Officer or their designee shall schedule a Board of Health meeting on the matter, and so notify the permit-holder personally, in writing either rby delivery of a copy of the notice to him or her personally, or by mailing a copy of the notice by certified mail, return receipt requested, of the date, time, and location of said hearing.
- C. Upon conclusion of a Board of Health meeting on the matter, should the Board determine that a permit should be revoked, the Board shall then notify the permit-holder of the fact personally at the conclusion of the meeting, or by mailing the permit-holder a copy of the written notice of permit revocation by certified mail, return receipt requested.
- D. Any permit-holder who fails to appear at the time and place fixed for such Board of Health hearing on the matter shall not be entitled to any further hearing, and in that event their permit may, as a matter of course, be forthwith revoked. The Board of Health shall notify the permit-holder of such permit revocation by mailing the permit-holder a copy of the written notice by certified mail, return receipt requested.
- E. Reasons for automatic suspension and/or revocation of a permit include, but are not limited to, the following:
 - 1. Fraud, misrepresentation, false statement, or omission of any required information in the application for the permit.
 - 2. Fraud, misrepresentation, false statement, or omission of any required information made while operating the permitted business within the Township.
 - 3. Any violation of this Chapter.
 - 4. Conviction of the owner, manager, or any employee of the establishment of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, and/or any crime involving dishonesty.
 - 5. The owner, manager, or any employee refusing entry to any duly authorized official from the Health Department, Police Department, Construction Department, Fire Department, or any other authorized Township Official to inspect the premises or operations therein.
- F. Should an establishment have their permit revoked for any reason, at no point in the future shall the same premises be used again for the purposes of operating another massage, bodywork, or somatic therapy establishment.

§ 421-11. Exceptions.

- A. The provisions of this section shall not apply to massage and bodywork therapies given:
1. In the office of a licensed physician, chiropractor or physical therapist; or
 2. By a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or
 3. By any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
 4. 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.

§ 421-12 Enforcement

The Health Department and Police Department, and any other designated official of Montville Township, shall implement, administer, and enforce this Chapter, and are hereby authorized to issue all rules and regulations consistent with this Chapter, and shall have all necessary powers to carry out the purposes of this Chapter and to enforce this Chapter, and are authorized to issue citations for any violation of this Chapter.

§ 421-13. Violations and penalties.

- A. Any person, firm, or corporation, upon conviction of violation of any of the provisions of this Chapter, shall, be subject to a fine of not less than two hundred fifty (\$250) dollars nor more than two thousand (\$2,000) dollars, or by imprisonment in jail for a period of not exceeding 90 days, or both, at the discretion of the Judge imposing such fine and/or penalty.
- B. Each and every day that a violation of this Chapter is found to exist shall constitute a unique and separate violation of this Chapter.
- C. Any conviction of any owner, manager, operator, or employee of a massage, bodywork, or somatic therapy establishment of any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency, and obscenity, including the sale, uttering or exposing and public communication of obscene material; laws which relate to the commission of sodomy, adultery, and proscribing fornication shall devolved upon the owner such establishment, it being specifically declared that the following such conviction of an employee, manager or owner of the establishment shall be prosecuted as an accessory to such violation and the permits which have been issued for the establishment shall be automatically revoked.

§ 421-14. Repealer.

All ordinances or parts of ordinances inconsistent with this within Chapter are hereby repealed to the extent of such inconsistencies.

§ 421-15. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason deemed 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.

§ 421-16. When effective.

This Chapter shall take effect upon final passage in accordance with law.

SECTION 2. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

Second reading on this _____ day of _____, 2020.

Signed by:

Charles Perry, President, Montville Township Board of Health

In the presence of:

Kim Horiguchi, Secretary, Montville Township Board of Health