

**ORDINANCE NO. 24-338**

**MONTGOMERY TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF MONTGOMERY TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP CODE, PART II, GENERAL LEGISLATION, TO CREATE A NEW CHAPTER ENTITLED "MASSAGE ESTABLISHMENTS" AND ESTABLISHING DEFINITIONS, LICENSE REQUIREMENTS, FEES, OPERATION AND PREMISES REQUIREMENTS, FINES AND PENALTIES, AND A COMPLIANCE TIMEFRAME FOR THE OPERATION OF MASSAGE ESTABLISHMENTS**

**WHEREAS**, the Pennsylvania Second Class Township Code authorizes the Board of Supervisors of Montgomery Township ("Board") to make, amend, and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care, and control of the Township and the maintenance of peace, good government, health and welfare of the Montgomery Township ("Township") and its citizens;

**WHEREAS**, the Board recognizes the positive role that massage and alternative therapy can play in improving the health and well-being of citizens;

**WHEREAS**, the Township has seen a recent increase in the number of illegal massage or alternative therapy establishments in and/or around Montgomery Township that promote 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**, the Board has determined that the licensing and regulation of establishments that offer massages and alternative therapy, as hereinafter defined, is necessary to protect the public health, safety, and welfare of the residents, visitors, property owners, and business owners in the Township, and will courage best practices in the massage and alternative therapy industry.

**WHEREAS**, after due consideration of the proposed ordinance at a duly advertised public hearing, the Board has determined that the health, safety, and general welfare of the residents of Montgomery Township will be served by this amendment of the Montgomery Township Code to regulate the operation of Massage Establishments;

**WHEREAS**, the Board of Supervisors has met the procedural requirements of the Second-Class Township Code for the adoption of the proposed ordinance;

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Board of Supervisors of the Montgomery Township, Montgomery County, Pennsylvania, it is hereby enacted and ordained by the authority of same, as follows:

**SECTION 1. Code Amendment.** A new Chapter entitled “Massage Establishments” is hereby added to Part II, General Legislation, of the Montgomery Township Code to provide as follows:

## **MASSAGE ESTABLISHMENTS**

### **§1. Definitions and Word Usage.**

- A. The following words, terms, and phrases, when used in this article, shall have the following meanings ascribed to them:

#### **ALTERNATIVE THERAPY:**

- 1) The practice of an individual who uses touch to affect the energy systems, acupoints, Qi meridians, or channels of energy of the human body while engaged within the scope of practice of a profession with established standards and ethics. Such practices include acupressure, Asian bodywork therapy, polarity therapy bodywork, Quigong, reiki, shiatsu, and tui na;
- 2) Reflexology;
- 3) 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; and/or
- 4) Any massage-like activity that does not meet the definition of “Massage Therapy” set forth hereinafter.

**ALTERNATIVE THERAPY ESTABLISHMENT** - Any place in the Township where Alternative Therapy is administered for the payment of a fee or other compensation or consideration but not including a hospital, nursing home, medical clinic or the office of a physician, surgeon, physical therapist, chiropractor or osteopath, currently licensed as such by the Commonwealth of Pennsylvania, and including barbershops or practices licensed by the Department of Cosmetology, or any athletic program of accredited junior and senior high schools or colleges in which a massage is administered by a trainer within the scope of such athletic program.

**ALTERNATIVE THERAPY TECHNICIAN** - Any person who administers Alternative Therapy to another as part of a massage business or Alternative Therapy business that is not licensed as such by the Commonwealth of Pennsylvania.

**MASSAGE ESTABLISHMENT** – An Alternative Therapy Establishment or a Massage Therapy Establishment.

**MASSAGE THERAPIST** - An individual licensed by the State Board of Massage Therapy to practice massage therapy.

**MASSAGE 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 term 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; 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.

**MASSAGE THERAPY ESTABLISHMENT** - Any place in the Township where Massage Therapy is administered for the payment of a fee or other compensation or consideration but not including a hospital, nursing home, medical clinic or the office of a physician, surgeon, physical therapist, chiropractor or osteopath currently licensed as such by the Commonwealth of Pennsylvania, and including barbershops or practices licensed by the Department of Cosmetology, or any athletic program of accredited junior and senior high schools or colleges in which a massage is administered by a trainer within the scope of such athletic program.

**PERSON** - Any individual, association, firm, partnership, limited partnership, corporation, trust, or other legally recognized entity.

**RECOGNIZED SCHOOL** - Any school or educational institution licensed to operate as a school or educational institution in the state in which it is located or any school recognized or approved by the American Massage and Therapy Association, Inc., or such other bona fide educational institution that provides education on massage therapy and/or alternative therapy. Such a school or educational institution shall have the purpose of teaching the theory, method, profession, or work of an alternative therapy and issue a diploma or certificate of graduation.

**SEXUAL OR GENITAL AREA** - The genitals, pubic area, anus or perineum of any person, and the vulva and breasts of a female.

**THERAPY** - "Alternative Therapy" or "Massage Therapy" as defined herein.

**TOWNSHIP** – Montgomery Township, Montgomery County, Pennsylvania.

B. In this Chapter, any word used in the singular shall include the plural, any word used as a plural shall include the singular, and the masculine shall include the feminine and the neuter.

## **§2 License Requirements; Fees.**

A. License requirements for Massage Therapy Establishments. Requirements for the issuance of a license as a Massage Therapy Establishment are as follows:

- 1) All Massage Therapy Establishments must register with and be licensed by the Township. All Massage Therapists practicing Massage Therapy at a Massage Therapy Establishment must be licensed by the Commonwealth of Pennsylvania. The owner and/or operator of Massage Therapy Establishments shall register their business as well as all Massage Therapists and provide copies of the licenses issued by the Commonwealth of Pennsylvania for all Massage Therapists to the Township on a fully

completed application provided by the Township. The application must be filed in person by the person seeking the license during regular business hours. The owner and operator of the Massage Therapy Establishment shall have an ongoing obligation to update the names of Massage Therapists practicing in the establishment. The license fee for such a license shall be determined from time to time by Resolution of the Board of Supervisors.

- 2) All Massage Therapy Establishments must provide proof that all other required business licenses have been obtained and provide confirmation from the taxing entity that arrangements have been made for the payment of required all applicable taxes including business privilege tax, local service tax, and/or earned income tax for its employees.

B. License requirements for Alternative Therapy Establishments. Requirements for the issuance of a license as an Alternative Therapy Establishment are as follows:

- 1) All Alternative Therapy Establishments must register with and be licensed by the Township. No Alternative Therapy Establishment shall engage in an Alternative Therapy business unless all Alternative Therapy Technicians are licensed by the Township. The owner and/or operator of an Alternative Therapy Establishment shall register their business as well as all alternative therapy technicians on a fully completed application provided by the Township. The application must be filed in person by the person seeking the license during regular business hours. The owner and operator of the Alternative Therapy Establishment shall have an ongoing obligation to update the names of Alternative Therapy Technicians. The license fee for such a license shall be determined from time to time by Resolution of the Board of Supervisors.
- 2) All Alternative Therapy Establishments must provide proof that all other required business licenses have been obtained and provide confirmation from the taxing entity that arrangements have been made for the payment of required all applicable taxes, including business privilege tax, local service tax, and/or earned income tax for their employees.

C. Licensing requirements for Alternative Therapy Technicians. Requirements for the issuance of a license as an Alternative Therapy Technician are as follows:

- 1) Fee and contents. Any person desiring to obtain a license to provide services as an Alternative Therapy Technician shall submit an application to the Township. A fee shall accompany the submission of the application to defray the costs of administration and investigation. The amount of the fee for the Alternative Therapy Technician license shall be set by Resolution of Montgomery Township Board of Supervisors. The application must be filed in person by the person seeking the license during regular business hours. Applicant shall be required to identify the Alternative Therapy Establishment where applicant will be employed.
- 2) Diploma or certification of graduation. An applicant must receive training and education and receive a diploma or certification of graduation from a Recognized School. In the event that such person was previously licensed to perform Massage

Therapies in the Township and has not received a diploma or certificate of graduation, then not having completed such course of study, at the expiration of such person's current license, such person shall be issued a provisional license for a six-month period for the purpose of enrolling and completing such course of study.

3) Investigation. Applications for licenses for Alternative Therapy Technicians shall be referred to the Montgomery Township Code Enforcement Officer, which shall cause an investigation to be made and report the findings to the Township Director of Planning & Zoning. Applicants shall cooperate with any investigation conducted pursuant to the provisions of this Article Part and shall permit access to the proposed place of business and facilities in conjunction with such investigation. In addition, each applicant for licenses for an Alternative Therapy Technician must submit the following:

- i. Two forms of identification issued by either the federal or state government, with one containing a photograph.
- ii. FBI criminal background check per the directions at FBI website (must be the sealed and unopened envelope from FBI).
- iii. Certified state police criminal background check for the state in which they reside (must be notarized).
- iv. Signed release permitting Montgomery Township Police Department to conduct local records checks.

D. Granting of license. Within 60 days of the receipt of an application, including all required documents as set forth above and all applicable fees, the Montgomery Township Code Enforcement Department shall either grant or deny the license applied for by the applicant. The license shall be granted, provided that applicant, as applicant's name as it appears on the application, has not been convicted of or entered a plea of guilty to any felony or has a felony charge currently pending or has forfeited bail or has been convicted of or pleaded guilty to a violation of Section 5902 of the Crimes Code of the Commonwealth of Pennsylvania, 18 Pa. C.S. § 5902, pertaining to prostitution and related offenses, or any law of any other jurisdiction involving sexual misconduct.

### **§3. Massage Establishment Premises Minimum Requirements.**

Each Massage Establishment premises shall comply with the following minimum requirements:

- A. Massage Establishments shall be a minimum distance of 1,000 feet from the next nearest Massage Establishment, measured along a straight line between the closest walls of each of the Massage Establishment's premises.
- B. The premises shall have adequate equipment for disinfecting instruments and materials. Such instruments and materials shall be disinfected after every use.
- C. All tables, bathtubs, shower stalls, steam rooms, sauna rooms, bath areas, and floors shall have surfaces which may be readily disinfected. The surfaces of all tables or other apparatus used

to perform Massage Therapies or Alternative Therapies shall be of a nonporous material that can be disinfected after each use.

- D. All walls, ceilings, floors, showers, bathtubs, steam rooms, sauna rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. When carpeting is used on the floors, it shall be kept dry.
- E. The premises shall be equipped with a service sink for custodial services.
- F. The premises shall have a minimum of one toilet and one washbasin.
- G. Treatment rooms shall be at least 50 square feet of floor area and shall maintain a light level of no less than 20 foot-candles 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). Such rooms shall contain a door incapable of being locked from either the exterior or the interior.
- H. The premises must comply with applicable codes, ordinances, and regulations of the Township, including, but not limited to the building, fire prevention, property maintenance, stormwater, waste, noise, nuisance, and zoning code provisions of the Township.

#### **§4. Massage Establishment Operation Minimum Requirements.**

Every Massage Establishment, Massage Therapist, and/or Alternative Therapy Technician shall comply with the following minimum requirements:

- A. Prohibited conduct. Only employees of the Massage Establishments may offer and provide Therapy to clients. Independent contractors are specifically prohibited.
- B. Therapies at an Alternative Therapy Establishment may commence no earlier than 6:00 a.m. and shall occur no later than 9:00 p.m.
- C. All licenses issued by the Township or Commonwealth of Pennsylvania shall be on display and available for inspection. Price rates charged for any and all Therapies shall be prominently posted in the reception area in a location available for view, and no charges may be made other than in accordance with such posted rates.
- D. No person under the age of 18 years of age shall be permitted to enter or remain on the premises or receive any Therapy unless accompanied at all times by a parent or legal guardian. Clients (or a parent or legal guardian if the client is under the age of 18) shall provide a valid form of identification before any Therapy occurs.
- E. The Massage Establishment shall maintain a list of clientele and services provided for not less than 90 days after the date of service.

- F. There shall be an adequate supply of clean towels, linens, and coverings inside the Massage Establishment. Towels, linens, and coverings shall not be used by or placed upon more than one patron unless they have first been laundered and disinfected. Disposable towels, linens and coverings shall not be used by or placed upon 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.
- G. 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.
- H. The owner, licensee, or a duly authorized manager shall be on duty at all times within the Massage Establishment during the hours the Massage Establishment is open for business.
- I. Eating or drinking shall not be permitted in the Massage Establishment except while the Massage Establishment is open for Therapies. The sale and/or the serving of alcoholic beverages shall be strictly prohibited unless duly licensed by the Commonwealth of Pennsylvania. Persons shall not be permitted to bring alcoholic beverages into the Massage Establishment for consumption inside of the Massage Establishment.
- J. Animals, except for guide and service animals for the handicapped, shall not be permitted within the Massage Establishment.
- K. All employees of a Massage Establishment must be fully clothed at all times when in the presence of another person.
- L. Smoking is prohibited inside of a Massage Establishment.
- M. Gambling and/or the presence of Games of Skill Machines are prohibited.
- N. No patron or persons other than employees of the Massage Establishment shall remain in Massage Establishment for more than one hour after closing. The Massage Establishment shall not be used as a dwelling unit and may not have a stove located in the Massage Establishment.
- O. Massage Therapists and Alternative Therapy Technicians shall wash their hands immediately prior to and immediately after 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.
- P. It shall be unlawful for any person providing Therapies to place his or her hands upon, touch, fondle, or otherwise have any physical contact with, including massaging a Sexual or Genital Area of any other person or to offer to so touch any person in a Sexual or Genital Area. It shall be unlawful for any person providing Therapies to expose his or her Sexual or Genital Area to any other person.
- Q. For the purposes of ascertaining violations of this Chapter and/or conducting routine inspections, federal, state, and county officials, Code Enforcement Officer(s), health inspectors, building inspectors, the Fire Marshal or duly authorized fire code inspectors of the

Township, or police officers of the Montgomery Township Police Department may request the right of entry into the Massage Establishment during the hours such respective establishment is open for business or occupied during such hours permitted under this Chapter and may request to be provided with the required list of clientele and services provided. If the Massage Establishment representative refuses entry or to provide any required documentation or unreasonably delays entry of the Township representative or the production of required documentation, the Township may revoke the Massage Establishment's license to operate.

#### **§5. Sale or Transfer of License.**

No license issued under the provisions of this Chapter shall be transferable or assignable without the written consent of the Township and the payment of a new licensing fee.

#### **§6. Revocation of License.**

Every license issued under the provisions of this Chapter is subject to revocation for violation of any of the provisions of this Chapter, said license may be revoked by the Township Code Enforcement Department after notice of the basis for such revocation. The license holder shall have the right to appeal from such proposed revocation to the Board of Supervisors and request a hearing. Notice of revocation shall be given in writing and shall be served at least 10 days prior to the effective date of the revocation by certified mail, by personal service on the license holder, or by posting the notice upon the entrance to the Massage Establishment. The notice shall advise the license holder of the right to appeal the proposed revocation. A hearing shall be held before the Board of Supervisors, and the license holder shall have the right to be represented at such hearing and to produce evidence.

#### **§7. Expiration of License.**

All licenses issued pursuant to the provisions of this Chapter shall expire one (1) year after the date of issuance. No later than one (1) month before the expiration, licensees shall make an application for renewal of said license if there is a desire to continue Massage Therapy operations.

#### **§8. Violations and Penalties.**

In addition to the refusal or revocation of a license as provided under this Chapter, any violation of this Chapter shall be enforced by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, firm, or corporation who shall violate any provision of this Chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and/or to imprisonment for a term not to exceed 10 days. Each day that a violation of this Chapter continues, or each section of this Chapter which shall be found to have been violated, shall constitute a separate offense. For purposes of this Chapter, the doing of any act or thing prohibited by any provision of this Chapter, or the failure to do any act or thing as to which any provision of this Chapter creates an affirmative duty, shall constitute a violation of this Chapter punishable as herein stated. It shall be an affirmative defense of a property owner that an alleged violation occurred without the knowledge of, or outside the control of, such property owner.



**§9. Time for Compliance.**

Massage Establishments and Alternative Therapy Technicians operating in Montgomery Township as of the time of the effective date of this Chapter shall have 60 days from said effective date in which to comply with the provisions of this Chapter, including all license and registration requirements.

**SECTION II. Severability.** The terms, conditions, and provisions of this Ordinance are hereby declared to be severable, and should any portion, part, or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, the Montgomery Township Board of Supervisors hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance, and the remainder of the Ordinance shall remain in force.

**SECTION III. Repealer.** Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions, and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

**SECTION IV. Effective Date.** This Ordinance shall become effective upon enactment as provided by law, with enforcement of this Ordinance to occur on the specific date(s) set forth in Section I above.

**SECTION V. Failure to Enforce Not a Waiver.** The failure of Montgomery Township to enforce or delay enforcement of any provision of this Ordinance shall not constitute a waiver by Montgomery Township of its rights to future enforcement hereunder.

**ORDAINED AND ENACTED** by the Board of Supervisors of Montgomery Township, Montgomery County, Pennsylvania, this 26<sup>th</sup> day of February 2024.

ATTEST:

**MONTGOMERY TOWNSHIP  
BOARD OF SUPERVISORS**

By: Carolyn McCreary  
Carolyn McCreary, Township Secretary

By: Audrey R. Ware  
Audrey R. Ware, Vice-Chair  
Montgomery Township Board of Supervisors