

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that an Ordinance, of which the following is a copy, was introduced, read and passed on first reading by the Mayor and Council of the Borough of Kenilworth at a meeting on the 25th day of January, 2012, and that said Council will further consider the said Ordinance for final passage on the February 22, 2012, at the Kenilworth Municipal Building, 567 Boulevard, Kenilworth, New Jersey, at 8:00 P.M., at which time and place any persons who may be interested therein will be given an opportunity to be heard concerning such Ordinance.

BOROUGH OF KENILWORTH ORDINANCE NO. 2012-03

AN ORDINANCE OF THE BOROUGH OF KENILWORTH AMENDING CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH, COUNTY OF UNION, STATE OF NEW JERSEY TO ENSURE THE SANITARY AND HYGENIC CONDITIONS OF MASSAGE AND BODYWORK THERAPIES, MASSAGE AND BODYWORK BUSINESSES, SOMATIC THERAPIES, AND/OR LIKE BUSINESSES OPERATING WITHIN THE CONFINES OF THE BOROUGH OF KENILWORTH.

THE FOLLOWING REVISIONS AND AMENDMENTS ARE ADOPTED BY ORDINANCE.

SECTION 208 OF THE BOROUGH OF KENILWORTH CODE IS HEREBY AMENDED BY THE FOLLOWING:

SECTION 208-1 IS HEREBY ADDED TO CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH:

SECTION 208-1. DEFINITIONS:

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. The Definitions set forth in N.J.S.A. 45:11-55 (Definitions relative to practice of massage and bodywork therapies) are hereby incorporated and set forth herein.

- a. Person – Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

SECTION 208-2 IS HEREBY ADDED TO CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH:

SECTION 208-2. LICENSING OF ESTABLISHMENT:

No person shall operate any establishment or utilize any premises in the Borough of Kenilworth for services related to massage and bodywork therapies or massage and bodywork without first registering with the Borough of Kenilworth for such establishment. Any applicant must include a copy of a current and valid registration as required by N.J.S.A. 45:11-76 (Registration required for advertising as a massage,

bodywork therapist) issued by the New Jersey Board of Massage and Bodywork Therapy, and full disclosure of any actions or proceedings against the applicant under N.J.S.A. 45:11-77 (Suspension, revocation of registration).

SECTION 208-3 IS HEREBY ADDED TO CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH:

SECTION 208-3. HEALTH LICENSE OF ESTABLISHMENT:

No establishment may operate without receiving written approval from the Health Officer of the Borough of Kenilworth indicating that the establishment is sanitary and hygienic for its purposed purpose. The Health Officer shall conduct at least one inspection each year, and may conduct periodic inspections at his/her discretion during regular business hours to ensure that an establishment maintains adequate sanitary and hygienic conditions throughout the interim periods.

SECTION 208-4 IS HEREBY ADDED TO CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH:

SECTION 208-4. LICENSE OF INDIVIDUAL PROVIDER:

No person shall render or perform services related to massage and bodywork therapies or massage and bodywork without complying with the provisions set forth in N.J.S.A. 45:11-54, *et seq* (Massage and Therapist Licensing Act) and providing an annual copy of said license to the Borough Clerk of Kenilworth prior to rendering or performing said services at the establishment.

SECTION 208-5 IS HEREBY ADDED TO CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH:

SECTION 208-5. Penalties:

1. Any person who is found to be operating in violation of the provisions of this Article shall be subject to the following fines:
 - a) A first offense shall carry a fine of \$500.00;
 - b) A second offense occurring within six months of a first offense shall carry a fine of \$1,000.00;
 - c) A third offense occurring within six months of a second offense shall carry a fine of \$2,000.00 and the violator and/or their principal shall be incarcerated no more than thirty (30) days.
2. Any person, firm, corporation, or type or form of business who has received notice of unsanitary or unhygienic conditions shall be subject to the following penalties and conditions:
 - a) If the violations set forth in the notice are not cured within three (3) business days of its receipt during, commencing on the first business day after receipt of the notice, a first offense shall carry a fine of \$500.00;
 - b) If a second notice under this provision is issued with six months of the first notice and the violations are not cured within three (3) business days of its receipt, commencing on the first business day after receipt of the notice, a second offense shall carry a fine

of \$1,000.00;

- c) If a third notice under this provision is issued with six months of the second notice and the violations are not cured within three (3) business days of its receipt, commencing on the first business day after receipt of the notice, a third offense shall carry a fine of \$2,000.00, and all business activity related to this chapter conducted by that person shall cease for a period of one (1) year;
- d) An establishment shall cease all business operations in the event of any unsanitary or unhygienic violations unless otherwise provided for within this provision.
- e) In the event that any establishment cures any in accordance with the prior sub-sections of this provision, the Health Officer shall re-inspect the establishment within two (2) business days of receiving notice from the establishment and the establishment remitting an inspection fee of \$250.00 to the Borough Clerk of Kenilworth. In the event that the Health Officer fails to timely inspect an establishment, the establishment may resume its normal business operations. In no event may an establishment provide notice later than the aforementioned three (3) business day period.
- f) A person may file for an appeal from any violation issued by the Health Officer with the Board of Health of the Borough of Kenilworth within the aforementioned three (3) business day period. In the event of an appeal, an establishment may resume business normal activities after addressing the violations unless the Health Officer has declared an imminent danger of a communicable disease.

SECTION 208-6 IS HEREBY ADDED TO CHAPTER 208 OF THE CODE OF THE BOROUGH OF KENILWORTH:

SECTION 208-6. Severability:

Each section, subsection, sentence, clause and phrase of this Article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Article.

EFFECTIVE DATE:

This Ordinance shall be in full force and effect from and after its adoption and its publication as required by law.

Introduced: _____

Adoption: _____

Mayor Kathi Fiamingo

ATTEST: _____
Hedy Lipke
Borough Clerk