

**A RESOLUTION TO REGULATE AND REQUIRE THE REGISTRATION
OF MASSAGE ESTABLISHMENTS AND THEIR EMPLOYEES
AS AUTHORIZED BY O.R.C. § 503.41 et seq.**

The Board of Trustees of Boardman Township, Mahoning County, Ohio met in regular session at the Boardman Township Government Center, 8299 Market Street, on the 23rd day of September, 2002, with the following members present: Thomas P. Costello, Elaine R. Mancini and Kathy Miller.

Mrs. Mancini made a motion to adopt the 2nd reading of the following Resolution:

WHEREAS, the Boardman Township Trustees find that Massage Establishments in Boardman Township require special supervision from public safety agencies in order to protect and preserve the health, safety and morals of the patrons of such businesses as well as citizens of the Township; and

WHEREAS, the Board of Township Trustees has determined that location criteria alone do not adequately protect the health, safety and morals of the people of this Township; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the Township which demands reasonable regulation of Massage Establishments in order to protect the health and well-being of the citizens; and

WHEREAS, the Board of Township Trustees finds that the incidence of unlawful sexual activities in Massage Establishments may be diminished by appropriate regulation; and

WHEREAS, permitting is a legitimate and reasonable means of accountability to ensure that operators of Massage Establishments comply with reasonable regulations and do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that individuals acting as a masseur or masseuse for a Massage Establishment comply with reasonable regulations and do not engage in illegal sexual activity or solicitation; and

WHEREAS, the Ohio Legislature has specifically authorized a Board of Township Trustees to regulate and require the registration of Massage Establishments;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF BOARDMAN TOWNSHIP, COUNTY OF MAHONING, STATE OF OHIO, THAT:

1. PURPOSE

The purpose of this Resolution is to establish reasonable and uniform regulations of Massage Establishments within the Township in order to promote the health, safety, and morals of the citizens of the Township.

2. DEFINITIONS

For purposes of this Resolution:

- (a) "MASSAGE" means any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance.
- (b) "MASSAGE ESTABLISHMENT" means any fixed place of business where a person offers massages:
 - (1) In exchange for anything of value; or

- (2) In connection with the provision of another legitimate service.
- (c) "MASSEUR" or "MASSEUSE" means any individual who performs massages at a massage establishment.
- (d) "SEXUAL OR GENITAL AREA" means the genitalia, pubic area, anus, or perineum of any person, and the breasts of a female.

3. MESSAGE ESTABLISHMENT PERMIT REQUIRED.

- (a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in the unincorporated areas of the township, the operation of a massage establishment without having first obtained a permit from the board of township trustees as provided in Section ---- of this Resolution. This provision shall not apply to the following:
 - (i) A person, licensed or registered by the State of Ohio Medical Board, while performing activities normally required by or associated with their licensed or registered profession;
 - (ii) A licensed cosmetologist, registered barber, registered barber apprentice, licensed chiropractor, licensed podiatrist, licensed practical or registered nurse, while performing activities normally required by or associated with their licensed or registered profession;
 - (iii) A person working under the direct supervision of an individual mentioned in this section while such individual is performing activities normally required by or associated with their licensed or registered profession.
- (b) As used in this section, "licensed" means licensed, certified or registered to practice in this state.
- (c) Any person who violates subparagraph (a) above shall be guilty of a misdemeanor of the first degree.

4. MASSEUR OR MASSEUSE LICENSE REQUIRED.

- (a) No individual shall act as a masseur or masseuse for a massage establishment located in the unincorporated areas of the township without having first obtained a license from the board of township trustees as provided in Section ---- of this Resolution.
- (b) Any person who violates this section shall be guilty of a misdemeanor of the first degree.

5. MESSAGE ESTABLISHMENT PERMIT APPLICATION.

- (a) An application for a Massage Establishment license shall be submitted to the Township Board of Trustees on a form provided by the Township Zoning Inspector. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the Township to determine whether the applicant meets the qualifications established in this Resolution.
- (b) An application for a Massage Establishment license shall identify and be signed by the following persons:
 - (1) If the business entity is owned by an individual, that individual.
 - (2) If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more than two percent (2%) of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed Massage Establishment.
 - (3) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the

organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed Massage Establishment.

- (c) An application for a Massage Establishment permit must designate one or more individuals who are to be principally responsible for the operation of the proposed Massage Establishment, if a permit is granted. At least one person so designated must be involved in the day-to-day operation of the proposed Massage Establishment on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a permit applicant.
- (d) An application for a Massage Establishment permit shall be completed according to the instructions of the application form, which shall require the following:
 - (1) If the applicant is:
 - (A) an individual, state the legal name and any aliases of such individual;
 - (B) a partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or
 - (C) a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or
 - (D) a corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacities of all Officers and Directors, the name of the registered corporate agent, and the address of the registered office for service of process.
 - (2) If the applicant intends to operate the Massage Establishment under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
 - (3) State whether any applicant has been convicted of or pleaded guilty to any violation of Chapter 2907 of the Ohio Revised Code, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907 of the Ohio Revised Code, within five years preceding the application.
 - (4) State whether any masseur or masseuse employed at the Massage Establishment has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Ohio Revised Code.
 - (5) State whether any applicant holds any other permits under this Resolution or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other permitted or licensed businesses.
 - (6) State the location of the proposed Massage Establishment, including a legal description of the property (i.e., block and lot), street address, and telephone number(s), if any.
 - (7) State the mailing address and residential address, date of birth, and social security number of each individual applicant and each individual person signing the application.
 - (8) State the federal tax identification number, if any, of any partnership, corporation joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization.

- (9) Submit a recent photograph of each applicant who is a natural person, taken by the Boardman Township Police Department, which clearly shows the applicant's face.
- (10) Submit the fingerprints of each applicant who is a natural person, recorded by the Boardman Township Police Department.
- (11) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed Massage Establishment.
- (12) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
- (13) Submit a sketch or diagram showing the configuration of the premises of the Massage Establishment. The diagram shall also designate the place at which the Massage Establishment permit will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

6. ISSUANCE OF MASSAGE ESTABLISHMENT PERMIT.

- (a) Upon receipt of a completed application for an Massage Establishment permit, the Board of Township Trustees shall promptly request that the Police Chief investigate the information provided in the application concerning the criminal background of the applicant(s) and that the Police Chief shall transmit the results of his investigation in writing to the Zoning Inspector within thirty (30) days of the date on the completed application.
- (b) Upon receipt of a completed application for a Massage Establishment permit, the Board of Township Trustees shall notify the Boardman Township Fire Chief and the Mahoning County Health Commissioner of such application. In making such notification, the Township Zoning Inspector shall request that the Fire Chief and Health Commissioner promptly inspect the premises for which the Massage Establishment permit is sought to assess compliance with the regulations under their respective jurisdictions.
- (c) The Fire Chief shall provide to the Board of Township Trustees a written certification of whether the premises are in compliance with the Fire Code within thirty (30) days of the date on the application.
- (d) The Mahoning County Health Commissioner shall provide to the Township Zoning Inspector a written certification of whether the premises are in compliance with the Health Code within thirty (30) days of the date on the application.
- (e) The Township Zoning Inspector shall commence the inspection of the premises for which a Massage Establishment license is sought promptly upon receipt of the application, and shall complete a written certification of whether the premises are in compliance with any applicable Building Code, the Township Zoning Resolution, and the provisions of this Resolution within thirty (30) days of the date on the application.
- (f) Within thirty (30) days after receipt of a completed Massage Establishment license application, the Board of Township Trustees shall approve or deny the issuance of a license. The Board of Township Trustees shall approve the issuance of a permit to an applicant unless he determines that one or more of the following findings is true:
 - (1) An applicant who is a natural person is under eighteen (18) years of age.
 - (2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face.

- (3) An applicant has been convicted of or pleaded guilty to any violation of Chapter 2907 of the Ohio Revised Code, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907 of the Ohio Revised Code, within five years preceding the application.
- (4) A masseur or masseuse employed at the Massage Establishment has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Ohio Revised Code.
- (5) An applicant has failed to cooperate with any required health or safety inspection.
- (6) An applicant is not in compliance with the requirements of this Resolution.
- (7) The application and investigation fee required by this Resolution has not been paid.
- (g) A Massage Establishment permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the address of the Massage Establishment, and the expiration date of the permit. All Massage Establishment permits shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.
- (h) The Board of Township Trustees shall advise the applicant in writing of the reasons for any license denial.

7. MASSEUR OR MASSEUSE LICENSE APPLICATION.

- (a) An application for a masseur or masseuse license shall be submitted to the Board of Township Trustees on a form provided by the Township Zoning Inspector. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the Township to determine whether the applicant meets the qualifications established in this Resolution.
- (b) An application for a masseur or masseuse license shall be completed according to the instructions of the application form, which shall require the following:
 - (1) State the applicant's full name and any other names or aliases used by the applicant.
 - (2) State the applicant's date of birth, address and social security number.
 - (3) State the applicant's height, weight, and hair and eye color.
 - (4) Submit a recent photograph of the applicant, taken by the Boardman Township Police Department, which clearly shows the applicant's face.
 - (5) Submit the applicant's fingerprints, recorded by the Boardman Township Police Department.
 - (6) Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed Massage Establishment.
 - (7) State the applicant's present or intended business address and telephone number.
 - (8) Submit proof that the applicant is at least twenty-one (21) years old.
 - (9) Submit the results of a physical examination performed by a licensed physician with thirty (30) days of the application certifying that the applicant is free from communicable diseases.

- (10) Provide a statement detailing the Massage Establishment-related license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate an Massage Establishment, in this or any other jurisdiction, and whether the applicant has ever had a Massage Establishment -related license, permit, or authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.
- (11) State whether the applicant has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Ohio Revised Code or any violation of Chapter 2907 of the Ohio Revised Code, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907 of the Ohio Revised Code, within five years preceding the application.

8. ISSUANCE OF MASSEUR OR MASSEUSE LICENSE.

- (a) Upon receipt of a completed application for a masseur or masseuse license, the Board of Township Trustees shall request that the Township Chief of Police initiate an investigation of the information provided in the application concerning the criminal background of the applicant. The Township Chief of Police shall document the results of his investigation in writing within thirty (30) days of the date of the completed application and transmit this writing to the Board of Township Trustees.
- (b) Within thirty (30) days of the date of the completed application, the Board of Township Trustees shall approve or deny the issuance of the license. The Board of Township Trustees shall approve the issuance of a license to an applicant unless the Board determines that one or more of the following findings is true:
 - (1) The applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face.
 - (2) The applicant is under twenty-one (21) years of age.
 - (3) The applicant has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Ohio Revised Code or any violation of Chapter 2907 of the Ohio Revised Code, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907 of the Ohio Revised Code, within five years preceding the application.
- (c) If the masseur or masseuse license is denied, the Board of Township Trustees shall advise the applicant in writing of the reason(s) for any such denial.

9. FEES.

- (a) Every application for a new Massage Establishment permit shall be accompanied by an initial, nonrefundable filing fee of \$250.00 and an annual nonrefundable renewal fee of \$125.00.
- (b) Every application for annual renewal of a Massage Establishment permit shall be accompanied by a nonrefundable renewal fee of \$125.00.
- (c) Every application for a new masseur or masseuse license shall be accompanied by an initial, nonrefundable filing fee of \$100.00 and an annual, nonrefundable renewal fee of \$50.00.

- (e) Every application for renewal of a masseur or masseuse license shall be accompanied by an annual, nonrefundable renewal fee of \$50.00.

10. INSPECTION.

- (a) The Township Zoning Inspector and/or representatives of other Township departments or agencies, or the Mahoning County Health Commissioner, shall, from time to time, but no less frequently than once per month, inspect during a licensee's regular business hours, that portion of each Massage Establishment licensed under the provisions of this Resolution that is open to the public in order to assess compliance with the provisions of this Resolution.
- (b) Any refusal on the part of a licensee to permit such lawful inspection of the premises or prohibition or interference with such lawful inspection of the premises shall be grounds for revocation of the Massage Establishment permit pursuant to Section --- of this Resolution.

11. PERIODIC PHYSICAL EXAMINATION OF MASSEURS OR MASSUESES

- (a) Each masseur or masseuse licensed under this Resolution shall undergo physical examinations performed by a licensed physician at 90 day intervals commencing from the date of the issuance of the license and after each examination shall obtain from the examining physician a written statement certifying that the masseur or masseuse continues to be free from communicable diseases.
- (b) Any refusal on the part of a licensee to provide proof of compliance with subparagraph (a) above by providing the original of the written statement referred to in said subparagraph to the Zoning Inspector, the Mahoning County Health Commissioner, or a law-enforcement officers shall be grounds for revocation of his or her license pursuant to Section --- of this Resolution.
- (c) The inability of a licensee to comply with the requirements of subparagraph (a) above due to the examining physician having determined that said licensee has not continued to be free from communicable diseases shall result in the suspension of his or her license until such time as the licensee shall obtain from an examining physician a written statement certifying that the masseur or masseuse is free from communicable diseases.

12. EXPIRATION AND RENEWAL OF MASSAGE ESTABLISHMENT PERMITS AND MASSEUR OR MASSEUSE LICENSES.

- (a) Each Massage Establishment permit issued pursuant to this Resolution shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than thirty (30) days before the expiration date. If application is made less than thirty (30) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date. No massage establishment shall be required to discontinue business because of the failure of the board of trustees to act on a renewal application filed in a timely manner and pending before the board on the expiration date of the establishment's permit.
- (b) An application for renewal of a Massage Establishment permit shall be submitted to the Board of Township Trustees on a form provided by the Township Zoning Inspector. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the Township to determine whether the applicant meets the qualifications established in this Resolution. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial permit application pursuant to this Resolution. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial permit application that has been revised or requires revision to reflect any change in circumstances or conditions.

Sketches or diagrams submitted with an initial Massage Establishment permit application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.

- (c) The Board of Township Trustees shall make determinations concerning the approval of permit renewals based on the same criteria used to evaluate applications for new licenses under this Resolution.
- (d) The Board of Township Trustees shall advise the applicant in writing of the reason(s) for any denial of a license renewal.
- (e) An application for renewal of a masseur or masseuse license shall be submitted to the Board of Township Trustees on a form provided by the Township Zoning Inspector. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the Township to determine whether the applicant meets the qualifications established in this Resolution. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Resolution. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.
- (f) The Board of Township Trustees shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under this Resolution.
- (g) The Board of Township Trustees shall advise the applicant in writing of the reason(s) for any denial of a license renewal.
- (h) When the Township denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial; provided, however, that if the Township finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the denial was issued.

13. SUSPENSION.

- (a) The Board of Township Trustees shall suspend a Massage Establishment permit for a period not to exceed thirty (30) days if it determines that a licensee:
 - (1) has violated or is not in compliance with any section of this Resolution; or
 - (2) has knowingly allowed an employee to violate or fail to comply with any section of this Resolution.
- (b) The Board of Township Trustees shall suspend a masseur or masseuse license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this Resolution.
- (c) The Board of Township Trustees shall suspend the license of a masseur or masseuse for inability of a licensee to comply with the requirements of Section -- (a) above due to an examining physician having determined that said licensee has not continued to be free from communicable diseases until such time as the licensee shall obtain from an examining physician a written statement certifying that the masseur or masseuse is free from communicable diseases.
- (c) The Board of Township Trustees shall advise the permittee or licensee in writing of the reason(s) for any suspension.

14. REVOCATION.

- (a) The Board of Township Trustees shall revoke a Massage Establishment permit or masseur or masseuse license if a cause of suspension under this Resolution occurs and the license has been suspended two times previously within the preceding twelve (12) months.
- (b) The Board of Township Trustees shall revoke a Massage Establishment permit if it determines that:
 - (1) a permittee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are insufficient on their face;
 - (2) a permittee failed to cooperate with any required health or safety inspection;
 - (3) any one of the persons named on the permittee's application is under the age of eighteen;
 - (4) any one of the persons named on the application has been convicted of or pleaded guilty to any violation of Chapter 2907 of the Ohio Revised Code, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907 of the Ohio Revised Code, within five years preceding the application;
 - (5) any masseur or masseuse employed at the Massage Establishment has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Ohio Revised Code.
- (c) The Township shall revoke a masseur or masseuse license if it determines that:
 - (1) a licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are insufficient on their face;
 - (2) a licensee is under the age of twenty-one
 - (3) a licensee has knowingly acted as an employee on the premises of a Massage Establishment during a period of time when the licensee's license was suspended;
 - (4) a licensee has been has been convicted of or pleaded guilty to any violation of Chapter 2907 of the Ohio Revised Code, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907 of the Ohio Revised Code, within five years preceding the application; or
 - (5) a licensee has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Ohio Revised Code.
- (d) The Board of Township Trustees shall advise the licensee in writing of the reason(s) for any revocation.
- (e) When the Board of Township Trustees revokes a permit or license, the permittee or licensee shall not be issued another permit or license for one (1) year from the date the revocation became effective. If the Board of Township Trustees finds, subsequent to revocation, that the basis for the revocation has been corrected or abated, the applicant may be granted a permit or license if at least ninety (90) days have elapsed since the date the revocation became effective.

15. APPEAL RIGHTS.

- (a) Any denial, suspension, or revocation of a new or renewal permit or license under this Resolution may be appealed to the court of common pleas of Mahoning County or the court of common pleas of the county in which the place of business of the permit or license holder is located, or of which the person affected is a resident.

- (b) Any such appeal shall be in accordance with Chapter 2506 of the Ohio Revised Code.

16. TRANSFER OF PERMIT OR LICENSE.

- (a) A Massage Establishment permit is not transferable from one permittee to another or from one location to another. Any purported transfer of a Massage Establishment permit shall automatically and immediately revoke that license.
- (b) A Masseur or masseuse license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one permitted Massage Establishment to another such permitted establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Board of Township Trustees within fifteen (15) days of such transfer.

17. REGULATIONS CONCERNING THE OPERATION OF MASSAGE ESTABLISHMENTS.

- (a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted, or carried on in the unincorporated areas of the township, the operation of a Massage Establishment without having first obtained a permit from the Board of Township Trustees as provided in the Resolution.
- (b) No individual shall act as a masseur or masseuse for a massage establishment located in the unincorporated areas of the township without having first obtained a license from the Board of Township Trustees as provided in this Resolution.
- (c) No owner or operator of a Massage Establishment located in the unincorporated areas of the township shall knowingly do any of the following:
 - (1) Employ an unlicensed masseur or masseuse;
 - (2) Employ any person under the age of eighteen (18);
 - (3) Refuse to allow appropriate state or local authorities, including police officers, access to the massage establishment for any health or safety inspection pursuant to this Resolution;
 - (4) Remain open for business at any time between the hours of 12 midnight and 12 noon on any weekday or Saturday, nor shall any massage, service or product be provided to a customer on the premises of said Massage Establishment during those hours. No Massage Establishment shall be open for business at any time on Sunday or on any legal State of Ohio or federal holiday, nor shall any massage, service or product be provided to a customer on the premises of said Massage Establishment during those days.
- (d) No person employed in a Massage Establishment located in the unincorporated areas of the township shall knowingly do any of the following in the performance of duties at the Massage Establishment:
 - (1) Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the sexual or genital area of any other person;
 - (2) Perform, offer, or agree to perform any act which would require the touching of the sexual or genital area of any other person;
 - (3) Touch, offer, or agree to touch the sexual or genital area of any other person with any mechanical or electrical apparatus or appliance;

- (4) Wear unclean clothing, no clothing, transparent clothing, or clothing that otherwise reveals the sexual or genital areas of the masseur or masseuse;
- (5) Uncover or allow the sexual or genital area of any other person to be uncovered while providing massages.
- (e) No licensed masseur or masseuse shall accept or continue to accept employment at a Massage Establishment that does not have a current, valid permit issued by the Board of Township Trustees
- (f) A valid and current Massage Establishment permit shall be displayed at all times in a portion of the premises open to the public.
- (g) Each masseur or masseuse shall have his or her valid and current masseur or masseuse license available on the premises of the Massage Establishment at all times that he or she is on the premises and shall produce his or her license for inspection at the request of the Township Zoning Inspector or any law enforcement personnel.
- (h) All Massage Establishments shall comply with the following health and safety requirements:
 - (1) Construction of rooms used for toilets, bathtubs, pools, steam rooms, steambaths, and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with applicable building codes.
 - (2) All walls, ceilings, floors, pools, showers, bathtubs, steambaths, steam rooms, and other physical facilities shall be in good repair and maintained in a clean and sanitary condition at all times. All massage tables, toilets, lavatories, washbasins and steam or bath areas shall have surfaces that may be readily disinfected and shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs and shower stalls shall be cleaned after each use. Carpeted areas shall be kept dry at all times.
 - (3) Adequate bathing, dressing and locker facilities shall be provided to serve patrons at all times. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.
 - (4) The establishment shall have adequate equipment for disinfecting and/or sterilizing nondisposable instruments and materials used in connection with administering massages. Such nondisposable instruments and materials shall be disinfected and/or sterilized after use on any patron.
 - (5) The establishment shall have a sufficient supply of clean linens, towels and other materials used in connection with administering massages at all times. Closed cabinets shall be provided and used for the storage of clean linens, towels and other materials used in connection with administering massages. Any linens, towels and other materials used in connection with administering massages shall be laundered after each use for a single massage and stored in a sanitary manner. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets that shall be kept separate from any containers, cabinets, or areas used to store clean linens, towels, and other materials.
 - (6) Separate toilet facilities for each sex shall be provided in convenient locations.
 - (7) Lavatories or washbasins provided with both hot and cold water shall be installed in either the toilet or a vestibule immediately adjacent thereto. Lavatories or washbasins shall be equipped with a dispenser for liquid soap and with single-use disposable paper towels. Each masseur or masseuse shall wash his or her hands in hot running water, using soap or disinfectant, before administering a massage to a patron.

- (8) The premises shall be equipped with a service sink for custodial services in an area separate from toilets, lavatories, and wash basins used by patrons;
- (9) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean closed containers or cabinets.
- (10) Eating shall not be permitted in any area where massages are administered or patrons are present at any time. No animals shall be permitted in any area where massages are administered or patrons are present at any time.

18. REGULATIONS PERTAINING TO THE LOCATION OF MESSAGE ESTABLISHMENTS

- (a) A Massage Establishment may be authorized as a conditionally permitted use by the Boardman Township Zoning Board of Appeals in accordance with the restrictions contained in (b) through (g) below.
- (b) A Massage Establishment may be located only in an Industrial District or on a lot wholly contained in that portion of a Commercial District located on the south side of South Commons Place, beginning at a point 780 feet east of the South Avenue-South Commons intersection.
- (c) No Massage Establishment may be established on any lot that abuts Market Street, South Avenue or U.S. Rte. 224.
- (d) No Massage Establishment may be established within 500 feet of:
 - (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - (2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - (3) A boundary of a residential district as defined in the Zoning Resolution;
 - (4) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Township which is under the control, operation, or management of either the Township or which is operated or managed by another public entity; or
 - (5) An entertainment business that is oriented primarily towards children or family entertainment.
- (e) No Massage Establishment may be established within 500 feet of the property line of a lot devoted to a residential use as defined in the Zoning Resolution;
- (f) No Massage Establishment may be established, operated or enlarged within 500 feet of another Massage Establishment or any Sexually Oriented Business as defined in the Zoning Resolution;
- (g) No Massage Establishment shall be granted a conditional use permit by the Boardman Township Zoning Board of Appeals unless the Board finds that the proposed Establishment demonstrates that it will be operated in full compliance with the provisions of this Resolution and all applicable provisions of the Boardman Township Zoning Ordinance, including, but not limited to, those set forth for the issuance of a conditional use permit in Article XII, Section A of that Ordinance.

- (h) For the purpose of subsections (d) & (e) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an Massage Establishment is operated, to the nearest property line of the premises of a use listed in subsection (d) & (e).
- (i) For purposes of subsection (f) of this Section, the distance between any two Massage Establishments or a Massage Establishment and any Sexually Oriented Business shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

19. PENALTY.

Violations of this Resolution shall be determined in accordance with the provisions of O.R.C. § 503.50.

20. EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this Resolution shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

21. EXISTING MASSAGE ESTABLISHMENTS

Any establishment in operation on the effective date of this Resolution that is considered a Massage Establishment under the terms of this Resolution will be subject to the terms of this Resolution as of the effective date of this Resolution. Any such establishment must submit an application for a Massage Establishment permit pursuant to this Resolution within sixty (60) days of its effective date. Any establishment for which a Massage Establishment permit application is submitted within the required sixty (60) day period will be permitted to operate, subject to compliance with the non-permitting provisions of this Resolution, pending review of the permit application.

22. EMPLOYEES OF EXISTING MASSAGE ESTABLISHMENTS

Any person acting, on the effective date of this Resolution, as a masseur or masseuse in an establishment that is considered an Massage Establishment under the terms of this Resolution, will be subject to the terms of this Resolution as of the effective date of this Resolution. Any such person must submit an application for a masseur or masseuse license pursuant to this Resolution within 10 days of its effective date. Any person who has submitted an application for a masseur or masseuse license within the required 10 day period will be permitted to continue acting as an employee in an establishment that is considered an Massage Establishment, subject to compliance with the non-licensing provisions of this Resolution, pending review of the license application.

23. EFFECTIVE DATE

This Resolution will be effective thirty days after the date of adoption unless, within thirty days after the adoption of the Resolution, the Township Clerk receives a petition, signed by a number of qualified electors residing in the unincorporated area of the Township equal to not less than ten per cent of the total number of votes cast in that area for all candidates for the office of governor at the most recent general election for that office, requesting the Board of Township Trustees to submit the Resolution to the electors of the area for approval or rejection at the next primary or general election occurring at least seventy-five days after the Board receives the petition.

24. COMPLIANCE WITH OPEN MEETINGS LAW

It is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including §121.22 of the Ohio Revised Code.

This Resolution shall be effective thirty (30) days from the date of adoption.

Mrs. Miller moved to second the motion to adopt the 2nd reading of the Resolution.

ROLL CALL:

Mr. Thomas P. Costello Aye
Mrs. Elaine R. Mancini Aye
Mrs. Kathy Miller Aye

EFFECTIVE DATE OF RESOLUTION: October 23, 2002.

BY ORDER OF THE BOARDMAN TOWNSHIP BOARD OF TRUSTEES

BOARDMAN TOWNSHIP/ BOARD OF TRUSTEES:

Thomas P. Costello, Chair
Elaine R. Mancini, Vice-Chair
Kathy Miller, Trustee

ATTEST:

William D. Leicht, Clerk

Approved as to form by:

Mahoning County Prosecutor
Boardman Township Law Director

CERTIFICATION

I, William D. Leicht, Clerk of Boardman Township, do hereby that the foregoing is taken and copied from the Minutes of Boardman Township, that the same has been compared by me with said Resolution, and that same is a true copy thereof.

William D. Leicht, Clerk