

ARTICLE XXIII- MASSAGE ESTABLISHMENTS

WHEREAS, the Austintown Township Trustees find that Massage Establishments in Austintown 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;

WHEREAS, There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values;

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 under Ohio Revised Code 503.41;

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

SECTION 2301-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.

SECTION 2302-DEFINITIONS:

- A. **“EMPLOYEE”** means any person who performs any service or work on the premise of a massage establishment, including but not limited to providing massages, performing work of a management or supervisory nature, or performing support functions, on a full time basis, part-time or contractual basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- B. **“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.
- C. **"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.
- D. **"MASSEUR”** or **“MASSEUSE”** means any individual who performs massages at a massage establishment.
- E. **“SEXUAL OR GENITAL AREA”** means the genitalia, pubic area, anus, or perineum of any person, and the breasts of a female.
- F. **SEXUALLY ORIENTED BUSINESS** - A sexually oriented business is one which is designed and used to sell, rent or show sexually explicit materials, to display nude bodies or one which is distinguished or characterized by an emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in Article XIX and XXIII of this Resolution, particularly but not exclusively, defined as meaning an adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or massage parlor.
- G. **Wall Sign.** The term Wall Sign shall mean a business sign attached or erected against the building or structure, with the exposed face of the sign in a plane parallel to the plane of such building or structure.

SECTION 2303-MASSAGE ESTABLISHMENT PERMIT REQUIRED:

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 O.R.C. 503.41.

SECTION 2304-MASSEUR OR MASSEUSE LICENSE REQUIRED:

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 O.R.C. 503.41.

SECTION 2305-EXEMPTIONS:

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 license from the board of township trustees as provided in O.R.C. 503.41. This provision shall not apply to the following:

1. 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;
2. 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;
3. 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.
4. Hospitals, nursing homes and public health centers, occupational therapists, athletic trainers, karate schools, private and public K-12 schools, community fitness centers.

SECTION 2306-REGULATIONS PERTAINING TO THE LOCATION OF MASSAGE ESTABLISHMENTS:

- A. A Massage Establishment may be authorized as a permitted use by the Austintown Township Zoning Inspector in accordance with the restrictions contained in (B) through (H) below in addition to the requirements adopted under Ohio Revised Code. 503.41.
- B. A Massage Establishment may be located only in an Industrial District and/or on a lot containing a minimum lot area of 20,000 sq. ft. on that portion of a Business B-2 District that is within 4,000 ft. of the midpoint of the State Route 46 and I-80 interchange overpass.
- C. No Massage Establishment may be established on any lot which abuts Mahoning Avenue, South Canfield-Niles Road, South Raccoon Road, New Road, Kirk Road, Westchester Drive, Viola Avenue, Idaho Road, Wilcox Road, Fitch Boulevard,

Howard Drive, Barkley Avenue, Lanterman Road, Javit Court, and North and South Four Mile Run Road.

- 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 other Sexually Oriented Business as defined in the Zoning Resolution;
- G.** Not more than one Sexually Oriented Business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure, or portion thereof containing another Sexually Oriented Business may not be increased.
- H.** For the purpose of subsection (d) 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 a Sexually Oriented Business is operated, to the nearest property line of the premises of a use listed in subsection (d).

- I. For purposes of subsection (g) of this Section, the distance between any two Sexually Oriented Businesses 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.

SECTION 2307-SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES:

- A. All signs shall be "wall signs" with a maximum allowable sign area of 40 square feet. Only one sign is permitted on each exterior wall of the building wherein the Massage Establishment is located. The wall sign shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner, and may contain only the name of the enterprise. Each letter forming a word on a wall sign shall be of a solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a wall sign shall be of a uniform and solid color.
- B. Banner signs or similar portable temporary signs, pennants, flags, inflatables, or any other portable temporary advertising device are not permitted on the exterior premises. Electronic reader board signs or similar signs are not permitted. Flashing lights and any lights that together create motion of any kind are not permitted on the sign or building or within the parking lot or landscaped/green space areas.
- C. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building.
- D. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A two-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

SECTION 2308-ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE DEVELOPMENT PLAN REQUIREMENTS:

- A. Lot area and width, setbacks, yard area, height provisions and other site development requirements for a Massage Establishment are those specified in §§1105-1110 of the Zoning Resolution. See sub-section "F" for buffering requirements. Each Massage Establishment shall be subject to all development standards of the underlying Business B-2 District and Industrial I-1 and Industrial I-2 Districts in which it is located.
- B. Parking requirements for a Massage Establishment are those specified in §1105 of the Zoning Resolution.

- C.** Deliveries of any kind to the establishment shall not be left on the exterior of the building at any time. Any merchandise whether exposed or packaged shall not be stored permanently or temporarily on the exterior of the building.
- D.** It shall be the duty of the operator of a Massage Establishment to: (a) post conspicuous signs stating that no loitering is permitted on such property; (b) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety minutes or inspecting such property by use of video cameras and monitors; and (c) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- E.** No Massage Establishment shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way. A Massage Establishment shall have sufficient outside lighting to provide adequate nighttime illumination of the exterior of the building and the surrounding parking areas within the care and control of the business. All on-site parking areas and premises entries of Massage Establishment shall be illuminated from dusk until one hour past closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. An on-premises exterior lighting plan shall be presented to the township zoning and county building departments for approval prior to the operation of any Massage Establishment. All parking must be visible from the fronting street. Access to the exterior rear of the building shall be denied to any persons other than employees and public officials during the performance of their respective duties.
- F.** Where a Massage Establishment abuts an Agricultural-A-SER District, Residence R-1 District, Residence R-2 District, Residence R-3 District, or Business B-1 District it shall comply with the requirements of Article XI-Business B-2 District, Section 1106 General Requirements of Business B-2: "Buffering".
- G.** All Massage Establishment building facades, exteriors, and exits must be indistinguishable from surrounding buildings. Illustrations depicting partially or totally nude males and/or females shall not be posted or painted on any exterior wall of a building used for a Massage Establishment, or on any door or apparatus attached to such building, or on any exterior structure such as but not limited to a tower, satellite dish antenna, light poles, natural landscape features such as rocks, mounds, etc.
- H.** The Massage Establishment shall provide separate restroom facilities for male and female patrons. Male patrons and employees shall be prohibited from using the restroom(s) for females, and female patrons and employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and

cleaning of the restroom facilities. The restrooms shall be free from sexually oriented material, including any motion picture or video projection, recording or reproduction equipment.

SECTION 2309- 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 Fiscal Officer 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.

SECTION 2310-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.

SECTION 2311-SEVERABILITY:

If any section, subsection, or clause of this amendment shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected. All amendments or parts of amendments in conflict with the provisions of this amendment are hereby repealed.