

# AUSTINTOWN TOWNSHIP

Mahoning County, Ohio

## TRUSTEES

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## FISCAL OFFICER

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## ADMINISTRATOR

ATTY. MICHAEL B. DOCKRY

### **A REVISED 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 Austintown Township, Mahoning County, Ohio met in a public hearing during regular session at the Austintown Township Administration Building, 82 Ohltown Road, Austintown, Ohio, 44515 on the 14th day of July, 2014, with the following Trustees present: Chair Lady Lisa L. Oles, Vice-Chairman James C. Davis, and Trustee Kenneth A. Carano.

Mr. Davis made a motion to adopt the 2nd reading of the following revised Resolution:

**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;

**WHEREAS**, Sections 503.40 through 503.50 of the Ohio Revised Code provides for the board of township trustees to regulate and require the registration of massage establishments and their employees; 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 AUSTINTOWN TOWNSHIP, COUNTY OF MAHONING, STATE OF OHIO, THAT:**

**I. 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.

**II. DEFINITIONS:**

For purposes of this Resolution:

- 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. "PERSONS"** means any individual, partnership, firm, association, joint stock company, corporation, limited liability company, or combination of individuals of whatever form or character.
- F. "SEXUAL OR GENITAL AREA"** means the genitalia, pubic area, anus, or perineum of any person, and the breasts of a female.

**III. 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 license from the board of township trustees as provided in Section VI of this Resolution. 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.
- B. As used in this section, "licensed" means licensed, certified or registered to practice in the State of Ohio.
- C. Any person who violates subparagraph (A) above shall be guilty of a misdemeanor of the first degree.

**IV. 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 VIII of this Resolution.
- B. Any person who violates this section shall be guilty of a misdemeanor of the first degree.

**V. 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

or the Township Police Chief. 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.
4. 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 license 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.
5. An application for a Massage Establishment license shall be completed according to the instructions of the application form, which shall require the following:
  - a. If the applicant is:
    - 1) An individual, state the legal name and any aliases of such individual;
    - 2) 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

- 3) 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
  - 4) 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.
- b. 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.
  - c. 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.
  - d. 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.
  - e. 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.
  - f. 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.
  - g. 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.
  - h. 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.

- i. Submit a recent photograph of each applicant who is a natural person, taken by the Austintown Township Police Department, which clearly shows the applicant's face.
- j. Submit the fingerprints of each applicant who is a natural person, recorded by the Austintown Township Police Department.
- k. 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.
- l. Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
- m. 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 license 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.
- n. A printed form, signed by each and every owner of the parcel(s) of real property and their improvements thereupon, which is the proposed location of the massage establishment, whereby each owner certifies that he/she/it understands and acknowledges that a massage establishment will be located on said real property.

**VI. ISSUANCE OF MASSAGE ESTABLISHMENT PERMIT:**

- A. Upon receipt of a completed application for an Massage Establishment license, 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 twenty (20) days of the date on the completed application.
- B. Upon receipt of a completed application for a Massage Establishment license, the Board of Township Trustees shall notify the Austintown 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 twenty (20) 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 twenty (20) days of the date on the application.
- E. The Township Zoning Inspector accompanied by the building inspector, fire inspector, and health commissioner or their designees shall commence an 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 and all applicable codes, the Township Zoning Resolution, and the provisions of this Resolution within twenty (20) days of the date on the application.
- F. Within twenty (20) 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 license to an applicant unless the Board 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. Any one of the persons named on the application 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; or the applicant has falsified any information required on the license application.
  - 3. 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.
  - 4. A masseur or masseuse performing the services or work of a masseur or masseuse at the licensed 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. Any one of the persons named on the application has failed to cooperate with any required health or safety inspection.

6. Any one of the persons named on the application is not in compliance with the requirements of this Resolution.
  7. The application and investigation fee required by this Resolution has not been paid.
  8. Falsification of any of the information required for the application or failure to fully complete the application.
- G. A Massage Establishment license, 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 license. All Massage Establishment licenses 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.

#### **VII. 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 or the Township Police Chief. 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, maiden name, and any other names or aliases used by the applicant.
  2. State the applicant's date of birth, place of birth, current address, current telephone number, and social security number. State the applicant's prior residence address and telephone number. State the applicant's immigration number or provide a certified copy of applicant's birth certificate. Submit proof that the applicant is at least twenty-one (21) years of age.
  3. State the applicant's height, weight, and hair and eye color.
  4. Submit a recent photograph of the applicant, taken by the Austintown Township Police Department, which clearly shows the applicant's face. Submit written authorization for an investigation into the criminal record of the person applying for the masseur or masseuse license.

5. Submit the applicant's fingerprints, recorded by the Austintown 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 physician licensed within the State of Ohio within twenty days (20) 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 a 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.

#### **VIII. 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 twenty (20) days of the date of the completed application and transmit this writing to the Board of Township Trustees.
- B. Within twenty (20) 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 are 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; or has falsified any information required for the license application.
  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.
  4. The applicant is not authorized to be in the United States of America and working.
  5. The examining physician having determined that said licensee applicant is not free from communicable diseases.
  6. The applicant has been previously denied and application for a masseur or masseuse license.
- 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.

**IX. FEES:**

- A. Every application for a new Massage Establishment license 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 license 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.
- D. Every application for renewal of a masseur or masseuse license shall be accompanied by an annual, nonrefundable renewal fee of \$50.00.

**X. INSPECTION:**

- A. The Township Zoning Inspector and/or representatives of Austintown Township safety services or other law enforcement 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 XIV of this Resolution.

**XI. PERIODIC PHYSICAL EXAMINATION OF MASSEURS OR MASSEUSES:**

- A. Each masseur or masseuse licensed under this Resolution shall undergo physical examinations performed by a physician licensed in the State of Ohio 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 Sections XIII and XIV 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.

**XII. EXPIRATION AND RENEWAL OF MASSAGE ESTABLISHMENT PERMITS AND MASSEUR OR MASSEUSE LICENSES:**

- A. Each Massage Establishment license 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 license shall be submitted to the Board of Township Trustees on a form provided by the Township Zoning Inspector or Police Chief. 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 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 or the Township Police Chief. 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.

### **XIII. SUSPENSION:**

- A.** The Board of Township Trustees shall suspend a Massage Establishment license 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 XI- (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.
- D.** The Board of Township Trustees shall advise the licensee in writing of the reason(s) for any suspension.

### **XIV. 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 license 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, or has falsified any of the information required on the license application;
  - 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.

A. 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; or has falsified any of the information required on the license application;
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 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 license, the licensee shall not be issued another 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 license if at least ninety (90) days have elapsed since the date the revocation became effective.

**XV. APPEAL RIGHTS:**

- A. Any denial, suspension, or revocation of a new or renewal license under this Resolution may be appealed to the court of common pleas of Mahoning County.
- B. Any such appeal shall be in accordance with Chapter 2506 of the Ohio Revised Code.

**XVI. TRANSFER OF PERMIT OR LICENSE:**

- A. A Massage Establishment license is not transferable from one permittee to another or from one location to another. Any purported transfer of a Massage Establishment license 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 twenty (20) days prior to such transfer.

**XVII. 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 license 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 or permit any person who does not have a valid masseur or masseuse license to provide massages, 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.
  - 2. Employ or permit any person under the age of eighteen (18) to perform any service or work on the premises of a message 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.

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 8:00 AM on any day of the week, nor shall any massage, service or product be provided to a customer on the premises of said Massage Establishment between the hours of 12 midnight and 8:00 AM on any day of the week.
- D.** No person employed in a Massage Establishment located in the unincorporated areas of the township and performing the services or work of a masseur or masseuse in a Massage Establishment 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 perform the services or work of a masseur or masseuse at a Massage Establishment that does not have a current, valid license issued by the Board of Township Trustees.
- F.** A valid and current Massage Establishment license 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 Township Police Chief or any other 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 linen, 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.
11. All services offered and price rates for offered services 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.

12.

**XVII. REGULATIONS PERTAINING TO THE LOCATION OF MASSAGE ESTABLISHMENTS:**

Refer to Article 2306 of the Austintown Township Zoning Ordinance.

**XIX. 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 license pursuant to this Resolution within sixty (60) days of its effective date. Any establishment for which a Massage Establishment license 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.

**XX. 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 20 days of its effective date. Any person who has submitted an application for a masseur or masseuse license within the required 20 day period will be permitted to continue acting as an employee in an establishment that is considered a Massage Establishment, subject to compliance with the non-licensing provisions of this Resolution, pending review of the license application.

**XXI. SIGN REGULATIONS FOR MASSAGE ESTABLISHMENTS:**

Refer to Article 2307 of the Austintown Township Zoning Ordinance.

**XXII. ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE DEVELOPMENT PLAN REQUIREMENTS:**

Refer to Article 2308 of the Austintown Township Zoning Ordinance.

**XXIII. 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.

**XXIV. 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.

**XXV. PENALTY:**

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

**XXVI. 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.

**XXVII. PROCEEDINGS OF THE BOARD**

A board of township trustees acting under sections 503.40 to 503.49 of the Revised Code need not hold any hearing in connection with an order denying or revoking a permit or license to operate a massage establishment or masseur or masseuse license. The board shall maintain a complete record of each proceeding and shall notify the applicant in writing of its order. Any

person adversely affected by an order of the Austintown Township Board of Trustees denying or revoking a permit or license to operate a massage establishment or masseur or masseuse license may appeal from the order of the Board to the Court of Common Pleas, Mahoning County, the place of business of the permit or license holder is located, or the person is a resident. The appeal shall be in accordance with Chapter 2506 of the Revised Code.

**XXVIII. DEPOSIT OF FEES AND USE OF FEES.**

The board of township trustees having adopted a Resolution under section 503.41 of the Revised Code, the board shall deposit the fees collected by the township for massage establishment licenses and masseur and masseuse licenses in the township general fund and first use the fees for the cost of administering and enforcing regulations adopted under section 503.41 of the Revised Code.

**XXIX. PENALTIES.**

(A) Whoever violates division (A) or (B) of section 503.42 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (C), (D), or (E) of section 503.42 of the Revised Code is guilty of a misdemeanor of the third degree.

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

*Mr. Carano* moved to second the motion to adopt the 2nd reading of the revised Resolution.

**ROLL CALL:**

Mr. Kenneth A. Carano - yes  
Mr. James C. Davis - yes  
Mrs. Lisa L. Oles - yes

**EFFECTIVE DATE OF RESOLUTION:** 8-13-14

**BY ORDER OF THE AUSTINTOWN TOWNSHIP BOARD OF TRUSTEES**

**ATTEST:**

*Laura L. Wolfe*  
\_\_\_\_\_  
Laura L. Wolfe, Fiscal Officer

**AUSTINTOWN TOWNSHIP TRUSTEES**

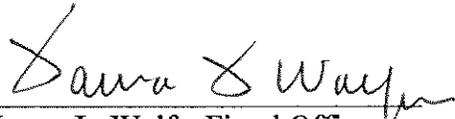
*Kenneth A. Carano*  
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Kenneth A. Carano

*James C. Davis*  
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James C. Davis

*Lisa L. Oles*  
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Lisa L. Oles

**CERTIFICATION**

I, Laura L. Wolfe, Fiscal Officer of Austintown Township, do hereby certify that the foregoing is taken and copied from the Minutes of Austintown Township, that the same has been compared by me with said Resolution, and that same is a true copy thereof.

  
Laura L. Wolfe, Fiscal Officer