

CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-585-A

MESSAGE ESTABLISHMENTS

AN ORDINANCE TO AMEND CHAPTER 14, SECTIONS 14.1 to 14.45 OF THE CODE OF ORDINANCES TITLED MESSAGE

CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Chapter 14 of the West Bloomfield Charter Township Code of Ordinances is hereby amended to be titled as follows:

MESSAGE ESTABLISHMENTS

Section 2 of Ordinance

Sections 14-1 to 14-45 of Chapter 14 of the West Bloomfield Charter Township Code of Ordinances is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 14-1. Purpose and Findings.

a) *Purpose.* It is the purpose of this chapter to regulate the operation of establishments and similar businesses offering massage therapy within the Township pursuant to the Township's police power in order to protect the health, safety, and general welfare of the citizens of the Township.

b) *Intent.* The licensing requirements are designed and intended to prevent illegal massage, human trafficking, prostitution and related crimes without hindering legitimate massage establishments and their massage therapists. Establishments that offer massage therapy as a subterfuge for human trafficking, prostitution, paid sexual contact, and other similar crimes are harmful to the public health, safety, and welfare.

c) *State licensing of individual therapists.* The Michigan Legislature declared that the practice of massage therapy is an activity affecting the public interest and public health, safety, and welfare. The Massage Therapists Act, MCL 333.17951, *et seq.* was enacted to prohibit an individual from engaging in the practice of massage therapy or using certain titles without being licensed under the Public Health Code; to establish minimum educational and experience standards for licensure; and to require continuing education courses as a condition for license renewal.

d) *Privilege*. The acquisition of a local massage establishment license is a privilege, not a right. The enactment and enforcement of this chapter relates to municipal concerns and is a valid exercise of the Township's police powers.

Sec. 14-2. Definitions.

For the purpose of the provisions of this chapter, the following definitions shall apply unless it is apparent from the context that a different meaning is intended:

Employee means a person who renders any service in connection with the operation of a massage establishment and receives consideration from the operator of the massage establishment or its patrons. Employee includes independent contractor, agent, apprentice, trainee, leased personnel and/or other similar relationships. This does not include a person who is exclusively on the premises for repair or maintenance of the premise, delivery of goods to the premise, or other similar purpose.

Influential interest means any of the following: 1) having the authority to operate the business or control the operation, management or policies of the business; or 2) the legal entity which operates the business; or 3) an ownership of a financial interest of ten percent (10%) or more of a business or of any class of voting securities of a business; or 4) holding an office such as: president, vice president, secretary, treasurer, managing member, or managing director in a legal entity which operates the business.

Licensee includes all persons and/or entities with an influential interest in the business for which a massage establishment license has been issued to operate a massage establishment within the Township.

Massage establishment means a business establishment where a person offers or provides massage or the practice of massage therapy and includes but is not limited to the following: massage spa, massage parlor, massage school, spa facility, health club, or physical fitness facility. The following facilities are exempt from the massage establishment licensing requirements of this chapter, however, all individuals practicing massage therapy at the facility are still required to obtain a State license:

- a) *Health care facilities*. A licensed hospital, medical clinic, nursing home, chiropractic or other professional health care establishment separately licensed as such by the State where massage is provided incidentally to the professional health care.
- b) *State licensed occupation*. Facilities where State licensed occupations operate such as barber shops, salons, and schools of cosmetology where massage is provided incidentally to the State licensed occupations operated on the premises.
- c) *Workplace*. Transient workplace locations during normal business hours where massage is performed upon employees pursuant to a policy of medical insurance or as a benefit provided by the employer as part of a workplace health program.

- d) *Public kiosks.* Kiosks or similar areas at locations open to the public where all massage therapy services are performed in public and fully clothed.
- e) *Community centers.* A community center, swimming pool, tennis court, or other physical, educational, cultural, or recreational facility operated by a governmental entity where massage therapy is provided as an incidental service.

Massage and practice of massage therapy means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Practice of massage therapy includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines.

Massage therapist means an individual who engages in the practice of massage therapy; all massage therapists shall be licensed pursuant to Part 179A of the Public Health Code, adopted by P.A. 471 of 2008, as amended, MCL 333.17951 through 333.17969.

Massage Therapy Act means the massage therapy regulations found in Part 179A of the Public Health Code, adopted by P.A. 471 of 2008, as amended, MCL 333.17951 through 333.17969.

Owner means a person who has an influential interest in the massage establishment.

Patron means any individual or customer who receives massage therapy at a massage establishment as defined in this chapter and is reasonably expected to pay money or give other consideration.

Person means an individual, partnership, limited liability company, corporation, or other entity.

School means any of the following accredited or licensed institutions of higher education that meet the minimum standards and curriculum in compliance with MCL 333.16148:

- a) A public or private community college, college, or university.
- b) A public or private trade, vocational, or occupational school.

Spa facility means a type of business massage establishment that offers or engages in personal services that call for the patron to disrobe including, but not limited to health spa, body wrap, hydro therapy, mineral wrap, magnetic healing, body polish, body wash, float bath, Turkish bathhouse, steam bath, magnetic healing, or salon. This term does not include hospitals or other professional health establishments separately licensed by the State.

Specified criminal act means any of the following specified crimes:

- a) An offense punishable by imprisonment for ninety (90) days or more under any of the following statutes, as amended, for which less than seven (7) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:
 - i. Michigan Penal Code Chapter II - Abduction
 - ii. Michigan Penal Code Chapter X - Arson and Burning
 - iii. Michigan Penal Code Chapter XI - Assaults
 - iv. Michigan Penal Code Chapter XVII - Bribery and Corruption
 - v. Michigan Penal Code Chapter XXVA - Criminal Enterprises
 - vi. Michigan Penal Code Chapter XXVIII - Disorderly Persons
 - vii. Michigan Penal Code Chapter XXXI - Embezzlement
 - viii. Michigan Penal Code Chapter XXXII - Explosives, Bombs, and Harmful Devices
 - ix. Michigan Penal Code Chapter XXIV - Extortion
 - x. Michigan Penal Code Chapter XLIII - Frauds and Cheats
 - xi. Michigan Penal Code Chapter XLIV - Gambling
 - xii. Michigan Penal Code Chapter XLV - Homicide
 - xiii. Michigan Penal Code Chapter XLVIII - Indecency and Immorality
 - xiv. Michigan Penal Code Chapter L - Kidnapping
 - xv. Michigan Penal Code Chapter LVIII - Mayhem
 - xvi. Michigan Penal Code Chapter LXVII - Prostitution
 - xvii. Michigan Penal Code Chapter LXVIIA - Human Trafficking
 - xviii. Michigan Penal Code Chapter LXXVI – Criminal Sexual Conduct
 - xix. Michigan Penal Code Chapter LXXVIII - Robbery
 - xx. Michigan Penal Code Chapter LXXXIII-A - Michigan Anti-Terrorism Act
 - xxi. Michigan Public Health Code, Article 7, Part 74, Controlled Substances-Offenses and Penalties
 - xxii. MCL 205.27, Taxation-Prohibited Acts - including Tax Evasion
 - xxiii. MCL 257.625, Operating While Intoxicated, Impaired, or Controlled Substance, punishable by imprisonment for one (1) year or more.
- b) Any attempt, solicitation, or conspiracy to commit one (1) of the foregoing offenses.
- c) Any offense enumerated in the Township Code of Ordinances which contains the same elements as one of the foregoing State offenses.
- d) Any offense in another jurisdiction, including federal offenses, that had the predicate act(s) been committed in the State, would have constituted any of the foregoing offenses.

State means the State of Michigan.

Student means any person who under the guidance of an instructor in a massage school is being trained or instructed in the theory, method, or practice of massage.

Sec. 14-3 to 14-4. Reserved.

ARTICLE II. LICENSE REQUIRED.

Sec. 14-5. Massage establishment license required.

a) *Required.* A person shall not operate a massage establishment in the Township without first obtaining a massage establishment license issued pursuant to the provisions of this article.

b) *Licensee(s).* Each applicant required to be qualified under the requirements of this article shall be a licensee and the name of each licensee shall be included on the face of the license issued.

c) *Each location.* Each massage establishment location requires a separate license.

d) *Massage therapist license required.* No person shall practice massage therapy at a massage establishment unless he or she has a valid massage therapist license issued pursuant to the Massage Therapist Act and certified administrative rules.

e) *Licensee responsibility.* It shall be the responsibility of the massage establishment licensee to ensure that each person practicing massage therapy at the licensed premises, whether employed or an independent contractor, shall have a valid massage therapist license as required by State law.

f) *Transfer of license prohibited.* A licensee shall not transfer the license to another, nor shall a licensee operate a massage establishment under the authority of a license at any place other than the address designated on the face of the massage establishment license. Any transfer shall be grounds for suspension and revocation. A proposed transfer shall require a new application be filed and shall be subject to the same procedures, standards, and fees required for a new license.

Sec. 14-6. Application.

a) *Information required.* An applicant for a massage establishment license shall annually file at the office of the Township Clerk, a completed application made on a form provided by the Clerk. The application shall be signed as required herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in paragraphs (1) through (14) below, accompanied by the required fee.

1. The applicant's full true name and any other names used by the applicant in the preceding seven (7) years. If the applicant is a partnership, corporation, limited liability company, or other legal entity, then all persons with an influential interest in the entity shall be deemed an

applicant and shall provide the information required by this article. Each applicant must be qualified under the requirements of this article, and each applicant shall be considered a licensee if a license is granted.

2. Current and two (2) immediately preceding addresses of each applicant within the preceding seven (7) years.
3. Written proof of identity in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
4. The business name, location, zoning classification, legal description, parcel identification number, mailing address, and phone number.
5. A copy of the State issued license for each massage therapist that will be practicing massage therapy at the massage establishment. It shall be the duty of the massage establishment licensee to submit copies of the State issued license for any new massage therapists within forty-eight (48) hours of the hire or contract date.
6. The name and business address of the designated local agent who is responsible to supervise the premises and activities and who is authorized to receive service of process.
7. The name and address of any other massage establishment owned or operated by applicant within the last seven (7) years.
8. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
9. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by applicant.
10. A statement as to whether any business in which an applicant has had an influential interest has, in the previous seven (7) years during which time the applicant had the influential interest:
 - i. Been declared by a court of law to be a nuisance as defined under the Revised Judicature Act, MCL 600.3801; or
 - ii. Been subject to a court order of closure or padlocking; or
 - iii. Had a business license revoked, suspended, denied; or not renewed for cause, and the reason for denial, suspension, non-renewal, or revocation.

- iv. Had regulatory ordinance violations issued, the reason for each violation, and the outcome of each proceeding.
11. A statement of whether any applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal act and, if so, specify each criminal act involved including the date, place, and jurisdiction of each, as well as the date(s) of conviction and release from confinement where applicable.
12. A criminal background report of each applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report(s). The report(s) shall not be dated more than 21 days prior to the date of acceptance of the application.
13. Evidence of current general commercial liability insurance in the amount of two hundred fifty thousand dollars (\$250,000.00) and workers compensation in statutory amounts. Insurance shall be maintained for the duration of the license period and the licensee shall submit proof of insurance within twenty-four (24) hours of any renewal. Licensee shall notify the Township Clerk within twenty-four (24) hours of the cancellation of insurance.
14. Proof of legal authority to operate the massage establishment at the premise location for the duration of the license period, such as a copy of a lease or a certified letter from the owner of the premises.

The information provided pursuant to paragraphs (1) through (14) of this subsection shall be supplemented in writing by hand delivery, e-mail, or certified mail to the Township Clerk within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

b) *Signature required.* If a person who wishes to operate the business is an individual, the person shall sign the application. If a person who wishes to operate a business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant.

c) *Application fee required.* A non-refundable license fee in an amount established by resolution of the Township Board shall be included with the application submission.

d) *Disclosure.* The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the Township Clerk's office and all personal information shall be deemed confidential and may be disclosed only as required by law or by court order.

Sec. 14-7. Application review.

a) *Department review.* Upon the filing of a completed application for a massage establishment license, the Township Clerk shall forward a copy to the following departments: Police, Building, Planning, Treasurer, Fire, Water Utilities, Code, and/or other department to review the application for compliance with the requirements of all applicable ordinances and codes. Within thirty (30) days, each Department shall make a recommendation to the Township Clerk concerning compliance with the requirements of this chapter and other applicable Township ordinances and codes.

b) *Inspection.* Filing an application for a massage establishment shall constitute consent to inspection by Township officials for the purpose of ensuring compliance with the specific regulations of this chapter. The Township shall inspect all portions of the premises where patrons are permitted during open business hours. This section shall be narrowly construed by the Township to authorize reasonable inspections of the licensed premises pursuant to this chapter.

c) *Chief of Police.* The Chief of Police shall have thirty (30) days to investigate the application, applicant's criminal convictions, civil judgments, license and applicant's regulatory compliance history. Upon completion of the investigations and review, the Chief of Police shall render a recommendation of approval or denial of the license to the Township Clerk and the reasons therefor.

d) *Reservation of authority.* Notwithstanding anything to the contrary in this article, no applicant has a right to the issuance of a license; and the Township hereby reserves the right to determine who, if anyone, shall be entitled to the issuance of the license based on the objective criteria listed in this ordinance which relates to concerns for public health, safety, and welfare as identified herein.

Sec. 14-8. Grounds for denial.

The Township Clerk shall issue a license unless one of the following grounds for denial exist:

1. *Information.* An applicant has failed to provide information as required by Section 14-6 for issuance of a license, or has falsely answered a question or a request for information, or knowingly omitted, concealed, or misrepresented a material fact from the application form.
2. *Fee.* The required license application fee has not been paid.
3. *State massage therapist licenses.* The applicant has not submitted a copy of the State issued massage therapist license for each massage therapist who will practice massage therapy at the establishment.
4. *Code compliance.* The subject premises lacks a current certificate of occupancy or does not comply with applicable building, zoning, plumbing, mechanical, electrical, health, or fire prevention codes.

5. *Facility.* The inspection reveals that the massage establishment facility does not comply with each of the minimum facility requirements set forth in Section 14-31.
6. *Unpaid fees.* The Building Department, Planning Department, Treasurer's Office, Water Utilities Department, Code Division, or the Fire Department has indicated that there are unpaid fees or uncured violations under its purview related to the subject premises.
7. *Taxes.* The Township Treasurer's Office has denied a real estate tax clearance pertaining to the subject premises.
8. *Ownership/lease.* The business does not own the premises; or does not have legal authority to operate the massage establishment on the premises; or does not have a lease for the full period for which the license is sought.
9. *Regulatory compliance history.* In the previous seven (7) years an applicant was found responsible or pled responsible for violating an ordinance regulation that applied to a licensed business in which an applicant had an influential interest, whether in Michigan or other state.
10. *Previous revocation/non-renewal.* An applicant has had a massage license revoked, suspended, denied, or not renewed for cause, in the last seven (7) years under this article or a comparable ordinance or state law, whether in Michigan or other state.
11. *Prior nuisance.* Any business in which the applicant has had an influential interest, has, in the previous seven (7) years and at the time during which the applicant had the influential interest:
 - i. Been declared by a court of law to be a nuisance as defined under the Revised Judicature Act, MCL 600.3801; or
 - ii. Been subject to an order of closure or padlocking.
12. *Specified criminal act.* An applicant has been convicted of, pled guilty, or pled nolo contendere to a specified criminal act as defined in this article.
13. *Additional licensing.* The business is not licensed to do business in Michigan or has not obtained other required licenses.
14. *Insurance.* Applicant did not submit proof of required insurance.

Sec. 14-9. License denial.

In the event the Township Clerk issues a written notice to deny based on one of the grounds listed in Section 14-8, the applicant may appeal the decision to the Township Board and the notice and appeal provisions of Section 14-18 and Section 14-19 shall apply.

Sec. 14-10. Time to approve or deny.

The Township Clerk shall act to approve or deny an application for massage establishment license within ninety (90) days from the date the complete application was accepted by the Township Clerk's office. The Township Clerk shall issue a license to the applicant or issue a written notice to deny the application. The Township Clerk shall issue a license unless the Township Clerk finds the existence of one or more of the grounds for denial as set forth in Section 14-8.

Sec. 14-11. License contents.

A massage establishment license shall state on its face each licensee name, the number of the license, the expiration date, and the address of the massage establishment business.

Sec. 14-12. Annual license, expiration; renewal.

a) *Annual license.* The massage establishment license is an annual license that expires March 31 of each year.

b) *Expiration.* Each license shall expire annually on the thirty-first day of March unless otherwise suspended or revoked.

c) *Renewal.* An application for renewal of a massage establishment license shall be considered in the same manner as an original application. A renewal application shall be filed at least ninety (90) days prior to the date of expiration.

Sec. 14-13 to 14-16. Reserved.

ARTICLE III. REVOCATION, NON-RENEWAL, APPEALS

Sec. 14-17. Revocation; non-renewal.

a) *Grounds for revocation/non-renewal.* The Township Clerk shall issue written notice to revoke or for non-renewal of the license if:

1. *Standards.* The licensee would not meet the standards set forth in Section 14-8 if the licensee were an applicant for a new license.
2. *Regulatory violations.* The licensee has knowingly or recklessly allowed one (1) or more violations of the regulations of this chapter in the preceding twelve (12) month period.

3. *Nuisance.* The licensee has knowingly or recklessly allowed a nuisance, as defined under the Revised Judicature Act, MCL 600.3801, to be maintained upon the premises.
4. *Code violations.* The subject premises have existing violations of building, zoning, plumbing, mechanical, electrical, health or fire prevention codes.
5. *Disturbance.* The operation of the licensed establishment has resulted in a pattern of patron conduct in the neighborhood that substantially disturbs the peace, order, and tranquility of the neighborhood.
6. *Maintenance.* The licensee has failed to maintain the grounds and exterior of the licensee's establishment by allowing litter, debris, and/or refuse to unreasonably remain on the property or spread to adjoining properties.
7. *Operation without valid license.* The licensee knowingly or recklessly operated the business during a period of time when the license was revoked or not renewed.
8. *Illegal activity.* The licensee has knowingly or recklessly engaged in illegal activity or allowed any illegal activity to occur in or on the licensed premises.
9. *Insurance.* The licensee has failed to maintain the required insurance coverage.

b) *Effective date.* The revocation or non-renewal shall not take effect for twenty-one (21) days from the date of the notice of revocation or non-renewal. If a written appeal is filed within twenty (20) days of the date of the notice of revocation or non-renewal, the revocation or non-renewal shall be suspended until a decision on the appeal is rendered by the Township Board.

Sec. 14-18. Appeals.

a) *Notice.* The written notice of denial, revocation or non-renewal shall include the grounds for the denial, revocation, or non-renewal, the effective date of the decision, and that the applicant/licensee may, within twenty (20) days of the date of the notice, request in writing an appeal hearing before the Township Board pursuant to the provisions of Section 14-19.

b) *Decision suspended upon filing appeal.* If a written appeal is filed within twenty (20) days of the date of the notice of revocation or non-renewal, the revocation or non-renewal shall be suspended until a decision on the appeal is rendered by the Township Board.

Sec. 14-19. Appeal hearing.

a) *Notice of hearing.* Upon receipt of a request for appeal, the Township Board shall provide the licensee with notice and an opportunity to be heard. The Township Board shall serve

notice upon the licensee by certified mail, not less than twenty (20) days prior to the hearing date. The notice of hearing shall state:

1. The date, time and place of the hearing.
 2. A statement that the licensee may present evidence and testimony, and may be represented by an attorney.
- b) *Standard.* The clear error standard shall apply to the appeal to the Township Board.
- c) *Hearing and written statement.* The hearing shall be conducted by the Township Board and shall be open to the public. The Township Board shall submit to the appellee a written statement of its findings, decision, specific grounds for its decision, and a statement that the decision may be appealed to a court of competent jurisdiction.
- d) *Decision; effect.* If the decision on appeal finds there was no clear error and affirms the denial, revocation, or non-renewal, it will become effective upon the twenty-one (21) day appeal period expiring. If the Township Board finds that a clear error was made and grants the appeal; the denial, revocation, or non-renewal of the license shall be withdrawn and the license shall be issued/reinstated.

Sec. 14-20 to 14-22. - Reserved.

ARTICLE IV. REGULATIONS

Sec. 14-23. License to be displayed.

- a) *Business.* A massage establishment license issued under this chapter shall be displayed at all times in an open and conspicuous place in the lobby of the establishment or school for which it was issued.
- b) *Therapist.* The State issued massage therapist license shall be displayed in an open and conspicuous place in the lobby for each massage therapist practicing massage therapy at the establishment.

Sec. 14-24. Fraud.

- a) *False statement.* It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly omit any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this chapter and any such license so secured shall be void.
- b) *Fraudulent use.* It shall be unlawful for any person to fraudulently make use of, in any manner, a massage establishment license or massage therapist's license.
- c) *Alteration.* It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a license required or issued under the provisions of this chapter or under State law.

Sec. 14-25. Register of employees.

The licensee or person designated by the massage establishment licensee shall maintain a register of all persons employed or engaged as massage therapists. Included in the register shall be a copy of each massage therapist license. Records shall be kept for a minimum of two (2) years.

Sec. 14-26. Record keeping.

a) *Records of the massage establishment.* Every person who operates a massage establishment shall maintain an accurate record of all patrons accommodated. Such records shall include the patron's name, proof of identity, verification that the patron is over 18 years of age, executed consent forms, current address, and the time, date, and place of service, the nature of the service provided, and the name of the massage therapist providing the service. Establishment records shall be available at the establishment during business hours for inspection by a Township official. Records shall be maintained for one (1) year after the expiration of the license period.

b) *Records of the massage therapist.* A licensed massage therapist shall maintain a legible client record for each client which accurately reflects the therapist's assessment and treatment of the client. Entries in the client record shall be made in a timely fashion and shall comply with the requirements set forth in the State of Michigan Administrative Rules relating to Massage Therapy including, but not limited to R338.727, as amended.

c) *Patron requirement.* Every patron shall furnish proof of identity by showing a valid driver's license, voter registration certificate, or similar identification to the person that operates the massage establishment for the purpose of maintaining the accuracy of the establishment's record requirement.

Sec. 14-27. Supervision.

A licensee, manager, or supervisor shall be on the premises at all hours that the establishment is occupied by patrons or is open to the public. If during an inspection there is no licensee, manager, or supervisor on the premises, the establishment must cease operations and close until a licensee, manager, or supervisor is on the premises. A violation of this section by licensee, a manager, supervisor, or employee shall constitute a violation by the licensee. Any such violation may be a basis for revoking or not renewing a license.

Sec. 14-28. Responsibility of licensee.

It shall be unlawful for any person operating an establishment to knowingly permit or allow an employee, student, massage therapist, or other person to violate this chapter on the premises of the establishment.

Sec. 14-29. Access and inspections.

a) *Public place.* Every establishment subject to this chapter is declared to be a public place that shall not during business hours have the doors to the exits and entrances of the

establishment locked or obstructed in any way so as to prevent free ingress and egress of persons; provided, however, doors may be closed.

b) *Inspection.* Every establishment subject to this chapter shall be open for inspection by authorized Township officials during business hours for the purpose of enforcing the provisions of this chapter, and other applicable statutes, ordinances, or regulations relating to the public health, safety, and welfare.

c) *Entry; warrant.* If reasonably necessary to perform their duties or to preserve the peace, an authorized Township official may enter upon and inspect the establishment and its books and records during business hours, or when the licensed premises are occupied by an employee or licensee. A person shall not refuse entry to the licensed premises by authorized Township officials for the purpose of making lawful inspections when a massage establishment or massage school is ostensibly being operated. If entry is refused or not obtained, an authorized Township official may seek a warrant in order to authorize entry into the property, structure, or premises without the consent of the licensee or person in charge of the premises.

Sec. 14-30. Facility requirements.

Each massage establishment shall comply with all of the following minimum facility requirements:

1. *Sign.* A sign that complies with applicable Township sign requirements shall be posted at the main entrance identifying the name of the massage establishment and the hours of operation.

2. *Human trafficking notice.* Massage establishments shall post and maintain a copy of the human trafficking notice as set forth in MCL 752.1035, as amended.

3. *Code compliance.* Compliance with all applicable provisions of the building, plumbing, fire, mechanical, electrical, property maintenance, and health codes.

4. *Lighting.* Minimum lighting shall be provided in accordance with the building code, and at least one (1) artificial light of not less than 60 watts or equivalent shall be provided in each enclosed room or booth where massage services are administered.

5. *Sanitary facilities.* Wash basins, bathrooms, toilets, bathing facilities shower facilities, and other sanitary facilities shall be provided in accordance with the State Construction Code.

6. *Patron dressing and locker facilities.* If clothing and personal property is not kept with the patron, a minimum of one (1) dressing room is required and a separate locker for each patron which shall be capable of being locked.

7. *Disinfection.* Each massage establishment shall have equipment for disinfecting and sterilizing equipment used in administering massage. Non-disposable equipment and materials shall be disinfected after each use.

8. *Towels and Linens.* Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.

9. *Cabinets.* Closed cabinets shall be provided, which cabinets shall be utilized for the storage of clean linen. All soiled lines, towels and other materials shall be kept separate from the clean storage areas.

10. *Separate rooms.* Separate enclosed rooms, having doors capable of being closed, but not locked, shall be provided. Exterior doors may have locks, but such exterior doors shall not be locked while the establishment is open for business or while any massage is being administered therein.

11. *No sleeping facilities.* The premises shall not be used or made available for accommodating any person for sleeping quarters. No beds, mattresses, water mattresses, cots, or other furniture for sleeping shall be permitted at the establishment.

12. *Good repair and sanitary conditions.* All walls, ceilings, floors, pools, showers, bathtubs, whirlpools, steam rooms, saunas, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.

13. *Entrances and exits.* No establishment shall have an entrance or exit way providing a direct passageway to any other type of business, residence, or living quarters.

Sec. 14-31. Operating regulations.

The operations of the massage establishment shall comply with all of the following regulations:

1. *Rates.* Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

2. *Closing hours.* No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 7:00 a.m.

3. *Persons under age eighteen prohibited.* No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage establishment unless the person under the age of eighteen (18) years has in his or her possession a signed parental or guardian consent form consenting to his or her being on the premises for purposes of receiving a massage.

4. *Accommodating two (2) or more patrons.* It shall be unlawful for any massage establishment to accommodate two (2) or more patrons in the same room unless:

- i. The two (2) patrons in the same room knowingly and voluntarily request massage services in the same room; and
- ii. The two (2) patrons requesting massage services in the same room shall execute a consent form indicating permission to share a room and that they know each other.

5. *Alcoholic beverages and controlled substances prohibited.* No alcoholic beverages shall be brought into or upon the premises; and no person shall sell, give, dispense, provide, keep, or cause to be sold, given, dispensed, or provided any alcoholic beverage or controlled substance as defined by State law on the premises of any massage establishment.

6. *Employee cleanliness.* The skin and hands of those attending to patrons shall be clean and in a healthy condition, and the nails shall be kept short. The hands shall be washed thoroughly with hot running water, using proper soap or disinfectant before providing service or treatment to a patron.

7. *Clothing of employees and other persons.* All persons affiliated with the establishment, except patrons receiving a massage from a State licensed massage therapist, shall be completely clothed. For the purposes of this chapter, the term "completely clothed" means having either a blouse or shirt which shall cover all the upper body including the torso, excluding the arms and neck; and having on the lower body either pants or a skirt, and said pants or skirt must cover from the waist down to a point at least two inches (2") above the knee. All clothes worn in compliance with this chapter shall be entirely non-transparent.

Sec. 14-32. Unlawful acts.

Any violation of the following provisions shall be deemed grounds for the revocation and/or non-renewal of a massage establishment license:

- a) It shall be unlawful for any person in a massage establishment to have any contact with a person's breasts, genital area, or buttocks in a manner intended to arouse, appeal to, or gratify a person's sexual desire, or for illegal purposes, or for monetary gain.
- b) It shall be unlawful for a massage therapist or massage student to massage a patron whose genitals, pubic hair, anus, or the areola or nipple of the female breast are exposed during the treatment.
- c) It shall be unlawful for a patron receiving a massage to expose his or her genitals, pubic hair, anus, or the areola or nipple of the female breast to another person on the premises of a massage establishment. This prohibition relating to exposing the areola or nipple of the female breast shall not apply when the massage therapist is certified to provide oncology massage or manual lymphatic drainage massage.
- d) It shall be unlawful for a massage therapist or massage student to expose his or her genitals, pubic hair, anus, or the areola or nipple of the female breast to any other person at the massage establishment.

Sec. 14-33. Massage establishment as a school of massage.

A school of massage licensed as such under this chapter shall be governed by all of the terms hereunder and further must comply with the requirements set forth in MCL 333.17951, *et seq.*, 333.16148 and any other regulations required by law.

Sec. 14-34. Other laws applicable.

Nothing in this chapter shall be construed to exempt the licensee from any other requirements set forth by Township ordinance, State or federal law.

Sec. 14-35 to 14-39. Reserved.

ARTICLE V. PENALTIES AND ENFORCEMENT

Sec. 14-40. Penalties and enforcement.

a) *Misdemeanor.* A person who violates or fails to comply with any of the provisions of this article shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) and/or a maximum of ninety (90) days imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be treated as a separate offense.

b) *Civil proceedings.* The Township Attorney or designee is hereby authorized to institute civil proceedings necessary for the enforcement of this article to restrain or correct ordinance violations and for the recovery of costs and expenses incurred by the Township as authorized by law. Such proceedings, including injunctive relief, shall be brought in the name of the Township; however, the institution of civil proceedings shall not preclude enforcement of misdemeanor, administrative, or any other proceeding authorized by ordinance, State or federal law.

Sec. 14-41 to 14-45. Reserved.

Section 3 of Ordinance

Should any section, subdivision, sentence, clause, or phrase of this Ordinance be declared by the Courts to be invalid, it shall not affect the validity of the remainder of the Ordinance or any part other than the part invalidated. It is further declared that such provisions would have been adopted independently of the provision found to be invalid. Should any procedural aspect of this article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this article.

Section 4 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

I, Deborah Binder, the duly elected Clerk for the Charter Township of West Bloomfield, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of the Ordinance adopted by the Township Board for the Charter Township of West Bloomfield at a meeting held on the 15th day of October, 2018, the original of which is on file in the Office of the Township Clerk.

I affix my official signature/seal this 16th day of October, 2018.

By: Deborah Binder
Deborah Binder, Township Clerk

INTRODUCED: 09-24-2018
ADOPTED: 10-15-2018
EFFECTIVE: 10-24-2018
PUBLISHED: 10-24-2018

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