

DEWITT CHARTER TOWNSHIP

CLINTON COUNTY, MICHIGAN

ORDINANCE NO. 195.1

PREAMBLE

AN ORDINANCE TO PROVIDE FOR ISSUANCE OF TOWNSHIP LICENSES AND/OR PERMITS RELATING TO MASSAGE THERAPISTS AND PROVIDERS OF MASSAGE, AND MASSAGE ESTABLISHMENTS, AND THE OPERATION AND PHYSICAL PLANT REQUIREMENTS OF MASSAGE ESTABLISHMENTS, HEALTH CLUBS AND SIMILAR BUSINESSES WITHIN THE TOWNSHIP; TO PROVIDE FOR EXEMPTIONS FROM THE APPLICATION OF THIS ORDINANCE; TO REPEAL ORDINANCE NO. 195 EFFECTIVE MAY 29, 1991; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Charter Township of DeWitt, Clinton County, Michigan ordains:

SECTION I. TITLE.

This Ordinance shall be known and cited as the "DeWitt Charter Township Massage, Massage Therapy and Massage Establishment Ordinance."

SECTION II. PURPOSE.

The provisions of this Ordinance shall constitute the minimum requirements for the promotion of public health, safety and general welfare of the people of DeWitt Charter Township receiving services from health, massage, massage therapy personnel and massage establishments which provide such services.

SECTION III. DEFINITIONS.

For the purpose of this Ordinance, the following words and phrases shall be construed to have the meanings as stated, unless it is apparent from the context that a different meaning is intended:

Health Club: Any establishment which offers services in the form of massages, baths or similar services, singly or in combination, to club members or to the public for a charge. "Health Club" does not include:

- (1) Hospitals, nursing homes or medical clinics, or the office or facilities of a state licensed physician, surgeon chiropractor or osteopath, psychologist, clinical social worker, or other persons identified in Section 24A and B of this Ordinance;
- (2) Barber shops and beauty parlors or day spas operated by persons holding a valid license as a barber or cosmetologist.

Massage Establishment: Any building, room, or fixed location where any person engaged in or permits to be engaged in any conduct constituting the practice of massage. The terms "massage establishment" and "health club" may be used interchangeably, unless otherwise noted.

Massage Provider: Any person not licensed pursuant to PA 2008 No. 471 (MCL 333.17951 *et seq*) who engages in the use of touch, words, or directed movement to deepen awareness of patterns of movement in the body, as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

- (1) The Felden-Krais method, the Trager Approach, Polarity or Polarity Therapy as defined by MCL 333.17951(a), (c) and (f), which definitions are incorporated herein by reference, and the affectation of the human energy system or accupoints or qi meridians of the human body while engaged within the scope of practice of a profession with established standards and ethics as long, as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:
 - (a) Asian body work therapy;
 - (b) Reiki;
 - (c) Shiatsu;
 - (d) Reflexology;
 - (e) Structural integration.

Massage Therapy or the "Practice of Massage Therapy": 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. The practice of massage therapy includes complimentary 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. The 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 the prescription of medicines.

Massage Therapist: A person licensed by the State of Michigan pursuant to PA 2008 No. 471 (MCL 333.17951 *et seq*).

Person: Any individual, firm, corporation, partnership, association or other form of business organization or group.

School of Massage: Any school or institution described in MCL 333.17951 and any such school recognized by the Michigan State Board of Massage Therapy or which is licensed by the Michigan Department of Education or which is certified by the American Massage Therapy Association or the International Myomassethics Federation.

SECTION IV. LICENSES OR PERMITS REQUIRED, REPRESENTATIONS TO THE PUBLIC.

- A. No person shall use the titles "licensed massage therapist," "massage therapist," "masseur," "masseuse," "certified massage therapist," "clinical massage therapist," "medical massage therapist," "manual massage therapist," "Board-certified massage therapist," "massage technician," "myomassologist," "l.m.t.," "m.m.t.," and "c.m.t.," or similar words or initials that indicate that the person is a massage therapist, unless the individual is licensed under PA 2008 No. 471. A massage therapist shall obtain a permit from the Township as required herein.
- B. Massage provider. No person shall perform the services of a massage provider within the Township without first obtaining a permit from the Township as required in this Ordinance.
- C. All massage establishments, including those employing licensed massage therapists, shall obtain a permit from the Township as required in this Ordinance.
- D. No person shall engage in the practice of massage therapy unless said person holds a valid massage therapist license issued by the State of Michigan pursuant to PA 2008 No. 471.
- E. No person shall engage in, advertise, solicit or offer to engage in the providing of massage services without obtaining and maintaining in effect a massage license as required by this Ordinance, unless such person is exempt from licensure requirements in accordance with the terms of this Ordinance.

SECTION V. APPLICATION FOR HEALTH CLUB OR MASSAGE ESTABLISHMENT PERMIT.

The Township Clerk (or the Township Board upon the request of the Clerk) shall issue a non-transferable permit for a health club or massage establishment only if the establishment's owner as applicant complies with all of the following minimum requirements:

- A. An application for a permit required by this Ordinance, on a form supplied by the Township Clerk, shall be filed with the Township Clerk. Such application shall be accompanied by plans and specifications of the facilities, showing such details as entrances, partitions, windows, openings, ventilation, plumbing fixtures and water supply.
- B. The establishment facility shall comply in all respects with the Ordinances of DeWitt Charter Township, including the Building Code, Plumbing Code, Electrical Code, Fire Code and Zoning Ordinance.
- C. An application to obtain a permit to operate a massage establishment shall be accompanied by an investigation fee in an amount established by Resolution of the Township Board, no part of which shall be refundable.
- D. After an application for a permit has been fully completed by the applicant and all necessary documentation has been attached and the investigation fee has been paid, the Township Clerk shall refer the application and accompanying documents to the Township's chief law enforcement officer, or such other person as the Clerk may deem appropriate, such as the Clinton County or Township's Building Department, Planning and Zoning Department, Fire Department and the County Health Department, for review and recommendation.

SECTION VI. APPLICATION FOR MASSAGE PROVIDER LICENSE.

The Township Clerk, or her/his designee, shall issue a non-transferable license for a massage provider only if the person applying for the license complies with all of the following minimum requirements:

- A. An application, on a form supplied by the Township, for a license required by this Ordinance shall be filed with the Township Clerk.
- B. Submission of a non-refundable application investigation fee, as established from time to time by Resolution of the Township Board.

- C. After an application for a license has been fully completed by the applicant and all necessary documentation has been attached and the investigation fee has been paid, the Township Clerk shall refer the application and accompanying documents to the Township's chief law enforcement officer for an investigation, for review and recommendation.

SECTION VII. APPLICATION FOR MASSAGE THERAPIST AND MASSAGE PROVIDER LICENSE.

An applicant for a license required in this Ordinance shall submit the following information:

- A. The applicant's present full name and any past names or aliases used, date of birth, and current address, including street and city, and a current driver's license or other valid identification document.
- B. The two previous addresses, including street and city, immediately prior to the present address of the applicant, including the dates that the applicant resided at each address.
- C. A licensed massage therapist shall provide a copy of his or her State issued license currently in effect.
- D. The height, weight, sex, color of eyes, color of hair and a two inch by two inch photograph of the applicant's face, which photo shall have been taken within the sixty (60) days prior to the date of the application.
- E. Complete set of applicant's fingerprints, which will be taken by the Township Police Department or its designee.
- F. A certificate from a medical or osteopathic doctor stating that the applicant has, within the prior thirty (30) days, been examined and found to be in good physical health and free from any contagious or communicable disease which is likely to be communicated during the administration of a massage.
- G. The history of the applicant in the operation of a massage establishment or similar business, or occupation as a massage therapist, including, but not limited to, whether or not such a person has had a similar permit or license to practice massage or to operate a massage establishment revoked or suspended and the reason therefor, and the applicant's business activity or occupation subsequent to such action of suspension or revocation. The applicant shall further affirmatively indicate whether he or she has, within the previous five (5) years, been denied a permit or license in

another municipality or state to operate a massage establishment or similar business, or to work as a massage therapist.

- H. All criminal convictions, including misdemeanors, other than traffic violations.
- I. If the applicant is not a natural or naturalized citizen of the United States of America, a statement of the applicant's country of citizenship and written proof that the applicant has federal authorization to live and work in this country.
- J. The applicant shall authorize for release to the Township all personal, confidential or privileged information, including criminal, health and educational records, bearing on the applicant's qualifications or fitness for a license or permit.
- K. The application shall be signed and sworn to by the applicant.
- L. Such other identification and information deemed appropriate by the Township in connection with its verification of the applicant's representations.

SECTION VIII. APPLICATION FOR MASSAGE PROVIDER WHO IS NOT A STATE LICENSED MASSAGE THERAPIST.

A massage provider who is not a state licensed massage therapist shall submit an application for a Township issued license/permit required by this Ordinance and shall submit the following information:

- A. The information required by Section VII, subsections A through L, of this Ordinance.
- B. A description of the service to be provided.
- C. In an application for a massage provider license, proof that the applicant:
 - (1) Successfully completed a comprehensive course in the study at a school of massage, either established by legislative enactments by the State or approved by the State Board of Education or the American Massage Therapy Association or the International Mymassethics Federation, as evidence by a certificate of completion, diploma, certified transcript, degree or other confirming documentation satisfactory to the Township Board or the Township Clerk.
 - (2) Successfully completed comprehensive courses of study in anatomy, physiology, massage practice and theory that consists of a minimum of five hundred (500) hours of instruction and practical training.

- (3) Alternately, if the applicant has not completed the training and education required in subsections (1) and (2) above, the applicant may establish that he or she has successfully completed the examination offered by the American Massage Therapy Association or the International Myomassethics Federation for membership therein, and who is currently a member in good standing.
- D. The name, location and mailing address of the applicant's proposed workplace.
- E. Written proof that the applicant is at least eighteen (18) years of age. Sufficient written proof of the applicant's age may include a birth certificate, sworn affidavits, etc.
- F. The applicant shall acknowledge that he or she understands that providing knowingly false information shall be justification for denial of a license or permit application, or for revocation of an issued license or permit.

SECTION IX. APPLICATION FOR MASSAGE ESTABLISHMENT OR HEALTH CLUB LICENSE.

Application for massage establishment or health club license permit:

- A. The applicant's present full name and any past names or aliases used, date of birth, and current residence address.
- B. The two previous resident addresses immediately prior to the present address of the applicant, including the dates that the applicant resided at each address.
- C. A description of the service to be provided.
- D. The name(s), date(s) of birth and resident address(es) of the person(s) who will operate or manage the establishment on a daily basis shall be set forth. The permittee shall inform the Township as soon as practicable of a change in operators or managers of the establishment.
- E. A list of physical equipment to be located on the premises which will be used in the practice of massage.
- F. If the applicant is a corporation, a copy of the articles of incorporation, certificate of good standing or the authorization to do business in the State of Michigan; the bylaws of the corporation, and a complete list, including names, dates of birth and

residence addresses, of each of the officers and directors of the corporation and each stockholder owning more than ten percent (10%) of the corporation shares.

- G. If the applicant is a partnership, the names and residence addresses of each of the general and/or limited partnership; and, if the applicant is a limited liability company, the names and addresses of all members thereof, and identifying specifically the managing member. If the applicant is a corporation, the application shall set forth the name and address of the registered agent of said corporation and the name, address and telephone number of the corporate shareholder or officer in charge of the day-to-day operations of said establishment.
- H. A complete set of fingerprints of the partner, managing member or corporate officer in charge of the day-to-day operations shall be taken by the Township police department or its designee.
- I. The applicant shall submit a history of the operation of a massage establishment or similar business by any partner, member, shareholder or corporate officer or manager involved in applicant's business relating to said person's prior association with a massage establishment, including information as to whether such person has had a similar permit, license or authorization to conduct such business revoked or suspended and the reason therefor. The applicant shall further indicate whether within the previous five (5) years an application or such person or persons or entities have been denied a permit or license in another municipality or state to operate a massage establishment or similar business, or to work as a massage therapist or massage provider.
- J. All criminal convictions, including misdemeanors of all partners, members or corporate officers, shareholders or directors, other than traffic violations.
- K. The following additional information shall be contained in the application for a permit to conduct a health club or massage establishment:
 - (1) The number of employees, names, and qualifications of all persons who are intended to give massages in the proposed establishment;
 - (2) The names and addresses of any and all schools of massage attended by the operator/applicant and the dates attended, if any;
 - (3) A certified copy of a diploma or certificate of graduation from any and all schools of massage.

- L. The applicant shall acknowledge that he or she understands that providing knowingly false information shall be justification for denial of a license or permit application, or for revocation of an issued license or permit.
- M. The applicant shall authorize for release to the Township all personal, confidential or privileged information, including criminal, health and educational records, bearing on the applicant's qualifications or fitness for a license or permit.
- N. The application shall be signed and sworn to by the applicant.
- O. Such other identification and information deemed appropriate by the Township in connection with its verification of the applicant's representations.

SECTION X. APPLICATION REVIEW PROCEDURES; RIGHT TO APPEAL; NON-TRANSFERABILITY OF PERMIT OR LICENSE.

- A. The chief law enforcement officer shall have a reasonable time in which to investigate the application and the background of the applicant. Such officer shall recommend denial of an application for a license or permit if the character, reputation, moral integrity, or physical or mental condition of the applicant, or his or her employees, is found to be contrary to the public health, safety, morals or general welfare. The officer's recommendation shall be based upon appropriate facts reasonably related to the practice of massage and the applicant's fitness to practice massage, and which reflects the applicant's propensity to serve the public in a fair, honest, law abiding and open manner.
- B. In making his/her determination, the officer shall consider:
 - (1) All criminal convictions of the applicant, the reasons therefor, and the demeanor of the applicant subsequent to his or her release;
 - (2) Whether the applicant has been convicted of sexual misconduct, prostitution or pandering, narcotics violations, including possession, use or sale of controlled substances, dangerous weapons violations, obscenity law violations, theft, burglary, robbery, fraud, or crimes involving violent or assaultive behavior, or similar offenses;
 - (3) Whether the applicant has knowingly made any false, misleading or fraudulent statement in the application;
 - (4) Whether the applicant, in previously operating in the Township or any other municipality or state under a similar license or permit, has had such license

or permit revoked or suspended; the reasons therefor; and the demeanor of the applicant subsequent to such action.

- C. The County or Township's Building Department, Planning Department, Zoning Department, Fire Department, as may be appropriate, and the County Health Department shall inspect the premises proposed to be devoted to the massage establishment, and shall make, within a reasonable time, separate recommendations to the Township Clerk concerning compliance with the requirements of this Ordinance and all applicable Township, County or State laws.
- D. In the event each of the departments and the chief law enforcement officer makes a favorable recommendation to the Township Clerk's office, and if all requirements for the issuance of a permit or license have been met, the Township Board, or the Township Clerk if the Township Board delegates such authority, shall forthwith issue such a permit or license.
- E. Any person denied a permit or license by the Township Board or Clerk pursuant to these provisions may appeal to the Township Board in writing, stating the reasons why the permit or license should be granted. The Township Board may grant or deny the permit or license after a public hearing and such decision shall be final. The Township Board may elect on its own motion to review any determination of the Township Clerk granting or denying a license.
- F. All permits and licenses which are issued are non-transferable; provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions of this Ordinance.

SECTION XI. REVOCATION OF PERMIT OR LICENSE.

- A. Upon the filing of a sworn statement by any person that a massage provider or massage establishment or the owner or operator of a massage establishment has violated any provision of this Ordinance, or has committed a felony or crime of moral turpitude, or that such a crime has occurred on the establishment's premises, the Township Board shall be empowered to immediately suspend the license or permit of any massage provider and/or massage establishment.
- B. Within fourteen (14) days of an immediate suspension, the massage provider or owner or operator of a massage establishment shall be entitled to a full administrative hearing before the Township Board to determine the alleged violations.

- C. If the Township Board does not immediately suspend a permit or license, the Board may convene a full administrative hearing within a reasonable time to determine the validity of the alleged violations.
- D. The license holder shall be entitled to not less than five (5) days' notice of the hearing, and the right to present evidence and to cross-examine witnesses.
- E. After the hearing, if the Township Board finds that the alleged violations have been proven by a preponderance of the evidence, it may limit, suspend or revoke the license or permit.
- F. A summary suspension of a license or permit shall not be a prerequisite to the commencement of the administrative hearing authorized in this section, and an administrative revocation of a permit or license is not a prerequisite to the Township seeking all available legal or equitable remedies provided in Section XXV of this Ordinance.

SECTION XII. PERMIT AND LICENSE EXPIRATION AND RENEWAL.

- A. Permits and licenses issued under this Ordinance shall be renewed annually and shall, in each case, expire on December 31 of each year, except that permits and licenses initially issued during one year shall expire on December 31 of the next succeeding year.
- B. An application for a renewal of a permit or license shall be filed with the Township Clerk at least thirty (30) days before the expiration of the current permit or license held by the applicant.
- C. An application for a renewal of a permit or license shall be accompanied by payment of a non-refundable renewal application fee in an amount established by Resolution of the Township Board.
- D. The renewal application shall be on a form supplied by the Township and shall include a sworn affidavit from the applicant that the information provided in the original application, or a previous renewal application, is currently correct, or indicates any changes necessary.
- E. In addition to the affidavit, a signed statement from a medical or osteopathic doctor must be attached, stating that the applicant has, within the prior thirty (30) days, been examined and found to be free from any contagious or communicable disease which is likely to be communicated during the administration of a massage.

- F. The Township Clerk shall refer the renewal application and attachments to the officers and departments listed in Section 10, for review and recommendation. A permit or license renewal shall be reviewed if all requirements in this Ordinance have been met.

SECTION XIII. PHYSICAL PLANT AND EQUIPMENT STANDARDS.

No permit to conduct a massage establishment shall be issued unless an inspection by the Township reveals that the establishment complies with each of the following minimum requirements:

- A. A recognizable and readable sign shall, upon issuance of a permit/license and certificate of occupancy, be posted at the main entrance identifying the establishment as a massage establishment or a place where massage therapy or massage may be provided. All such signs shall comply with sign requirements contained in the Township's existing ordinances.
- B. Minimum lighting shall be provided in accordance with the Township Building and Electrical Codes.
- C. Minimum ventilation shall be provided in accordance with the Township Building Code.
- D. Adequate equipment for disinfecting and sterilizing apparatus used in performing the acts of massage shall be provided.
- E. Closed cabinets shall be provided for the storage of clean linen, sheets and towels.
- F. No part of the building in which the massage establishment is located shall serve as a residence or sleeping quarters for any persons or animals.
- G. Adequate dressing, toilet and washbasin facilities shall be provided for patrons.
- H. There shall be no locks on any door to any room in which any person engages in the practice of massage.
- I. All walls, ceilings, floors, showers (if any) and all other physical facilities of the massage establishment shall be maintained in good repair and in a clean and sanitary condition.
- J. 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.

SECTION XIV. SANITATION AND HYGIENE.

- A. At all times, all massage providers and all other employees of a massage establishment shall keep themselves personally clean, and shall wear clean, non-transparent outer garments that completely cover the legs, torso, and sexual and genital areas.
- B. No owner or operator of a health club or massage establishment shall knowingly serve any patron infected with any fungus or other skin infection, nor shall service be performed on any patron exhibiting skin inflammation or eruptions. However, a duly licensed physician may certify that such a person may be safely served and prescribed the conditions thereof.
- C. Personnel of the health club or massage establishment shall wash their hands in hot, running water, using a soap or disinfectant, before and after giving any service or treatment to each separate patron.
- D. Non-disposable apparatus shall be disinfected after each use.

SECTION XV. INSPECTIONS; RIGHT OF ENTRY.

- A. Each person who applies for a permit or license under this Ordinance is deemed to have thereby given his or her implied consent for Township representatives to enter and inspect the premises during business hours as specified in this Section.
- B. The chief law enforcement officer, Fire Marshal, Director of Building, Planning and Zoning, a Township Code Enforcement Officer, local health department official, or their duly authorized subordinates, may enter upon any premises for which a permit or license is required under this Ordinance, at any reasonable time, for the purpose of inspection, examination of records, and determination of compliance with the requirements of this Ordinance.
- C. Inspections for compliance with this or any Township Ordinance may be made without prior notice to the owner or operator of the massage establishment or the massage provider. This section shall not be construed to allow unannounced inspection of an area which is occupied by a patron who, at the time of inspection, is receiving massage services.
- D. Any licensee or permittee who refuses the right of entry to any such persons, or who hinders such inspection, shall forfeit the license or permit issued.

SECTION XVI. PLACE AND TIME FOR THE PRACTICE OF MASSAGE.

- A. Except as otherwise provided herein, no person shall engage in or allow or permit a person to engage in the practice of massage within the Township except on the premises of a massage establishment for which a valid permit has been issued pursuant to this Ordinance.
- B. A massage establishment must be located on premises zoned for business or commercial use. No person licensed pursuant to this Ordinance may engage in the practice of massage in a residential or agricultural district.

SECTION XVII. REGULATION OF THE PRACTICE OF MASSAGE.

- A. The owner and operator of a massage establishment for which a permit has been granted shall display the permit in a conspicuous place at all times so that it may be readily seen by persons entering the premises.
- B. Every person to whom a license has been issued to engage in the practice of massage shall conspicuously display the license at all times in the room or area where he or she is engaging in the practice of massage.
- C. Every massage establishment shall maintain a permanent record containing the name and address of each person receiving massage services, and the date and time of such service, and the name of the service provider. Except where prohibited by law, said records shall be made available upon demand to any Township official requesting same.
- D. The sexual and genital areas of patrons and customers must be covered by towels, cloths, or undergarments at all times when in the presence of any massage provider or employee of a massage establishment.
- E. Oils, creams, lotions or other preparations used in the practice of massage shall be kept in clean, closed containers or cabinets.

SECTION XVIII. LIQUOR AND CONTROLLED SUBSTANCES PROHIBITED.

- A. No person shall possess or sell any liquor or controlled substance, as that term is defined by MCL 333.7104(2) while on the premises of any massage establishment.
- B. No person shall engage in the practice of massage with a person who is visibly intoxicated by or under the influence of any liquor or controlled substance.

- C. No person shall engage in the practice of massage while intoxicated or under the influence of any liquor or controlled substance.

SECTION XIX. UNLAWFUL ACTIVITIES.

- A. It shall be unlawful for any person in a massage establishment to knowingly touch, fondle or massage, with any part of his or her body, the sexual or genital area of another person.
- B. It shall be unlawful for any person in a massage establishment to solicit, offer or agree to perform any act involving the touching, fondling or massaging, with any part of his or her body, the sexual or genital area, breasts or buttocks of another person in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desire.
- C. It shall be unlawful for any person to massage any other person, or give or administer any bath, or to give or to administer any of the other things mentioned in this Ordinance for illegal purposes, or for monetary gain or profit to have any contact with another person's sexual or genital area, breasts, or buttocks in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desire.
- D. Any violation of this provision shall be deemed grounds for the revocation of a license or permit.

SECTION XX. PATRONAGE OF MASSAGE ESTABLISHMENT BY MINORS.

No massage provider or massage therapist shall massage or treat any person under the age of eighteen (18) upon the premises of a massage establishment, except upon written order by a licensed medical doctor, doctor of osteopathic medicine or physical therapist. A copy of said order shall be maintained as part of the permanent records of the massage establishment. This provision shall not apply to persons under the age of 18 who are accompanied by a parent or legal guardian during the massage or massage therapy.

SECTION XXI. ADVERTISING.

No massage establishment or massage provider granted a license or permit under this Ordinance shall place, publish or distribute, or cause to be placed, published or distributed any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize massage services.

SECTION XXII. SALE OR TRANSFER OF MASSAGE ESTABLISHMENT.

Upon the sale or transfer of any interest in a massage establishment, the license shall be null and void. A new application shall be made by any person desiring to own or operate the massage establishment. Any sale or transfer of any interest in an existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with all applicable provisions of this Ordinance. A fee in an amount to be established by Resolution of the Township Board shall be paid for each application involving extension or expansion of the building or other place of business of the massage establishment. This section shall not be construed to prohibit the sale of a massage establishment contingent upon the granting of a required license or permit to the prospective purchaser.

SECTION XXIII. APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES.

This Ordinance shall be applicable to all persons and businesses described in this Ordinance, whether the described activities were established before or after the effective date of this Ordinance and including any person or persons whose application is presently under consideration or investigation by the Township. However, those businesses operating prior to the date of adoption of this Ordinance will have a sixty (60) day grace period from the date of adoption within which to comply with all the conditions and requirements of this Ordinance.

SECTION XXIV. EXCLUSIONS.

The provisions of this Ordinance shall not apply to the following persons while engaged in the personal performance of the duties of their respective professions:

- A. Any medical doctor, doctor of osteopathic medicine, dentist, doctor of chiropractic medicine, physical therapist or psychologist who is licensed to practice his or her respective profession in the State of Michigan, or who is permitted to practice temporarily under the auspices of an association of establishment duly licensed in the State of Michigan.
- B. Nurses who are registered or licensed under the laws of this State and who administer massage in the normal course of his or her nursing duties.
- C. A barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this State or another state within the United States, or the Federal Government, and who practices within the established limits of his or her license, and who administers massage in the normal course of his or her duties; provided, however, that such barber, manicurist, beautician or cosmetologist shall perform a massage only upon the face, hands, feet, neck or shoulders of another person.

- D. Any athletic trainer who has been certified by the National Athletic Trainers Association or who is employed by one of the public schools or State approved non-public schools, as those terms are used in MCL 380.1561, and who is performing massage on the school premises or school sanctioned event.
- E. A person engaged in the practice of massage in the permanent residence of the customer.

SECTION XXV. PENALTIES.

- A. Any person violating or neglecting or refusing to comply with any provision of this Ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punishable by imprisonment of up to ninety (90) days and/or the imposition of a fine up to Five Hundred and no/100 Dollars (\$500.00), plus costs, or both such fine and imprisonment.
- B. Each day that a violation is permitted to exist shall constitute a separate offense.
- C. In any prosecution for violation of this Ordinance, the exemptions listed in Section XXIV shall constitute an affirmative defense to the defendant, and it shall be incumbent upon the defendant to show that he or she is not subject to the provisions of this Ordinance.
- D. Violations of any provisions of this Ordinance are declared to be a nuisance per se. In lieu of or in addition to any other criminal penalty, administrative sanction, or civil penalty, the Township may seek mandatory injunctive relief for the abatement of the nuisance, and for continued compliance with this Ordinance, plus costs as the court shall determine.
- E. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

SECTION XXVI. REPEALER.

Ordinance No. 195 effective May 29, 1991 shall be and is hereby repealed upon the effective date of this Ordinance. In addition, all ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this ordinance full force and effect.

SECTION XXVII. SEVERABILITY.

Should any section, subsection, paragraph, sentence, clause, phrase or word of this Ordinance, or any part thereof, be found invalid or unconstitutional for any reason by any court of competent jurisdiction, or any agency, department or commission empowered for such purposes, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION XXVIII. SAVINGS CLAUSE.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION XXIX. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days after its adoption and publication as required by law.

First Reading:

June 13, 2011

First Publication:

June 19, 2011

Second Reading:

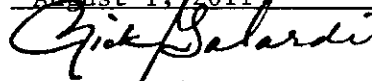
June 27, 2011

Second Publication:

July 2, 2011

Effective Date:

August 1, 2011



Rick Galardi, Supervisor



Diane K. Mosier, Clerk

I, Diane K. Mosier, Clerk of the Charter Township of DeWitt, hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 195, duly adopted by the Board of Trustees of the Charter Township of DeWitt, Clinton County, Michigan, on the 27th day of June, 2011, and that the same was posted and published as required by law on the 2nd day of July, 2011.



Diane K. Mosier, Clerk