

MASSAGE ESTABLISHMENT/THERAPIST REGULATIONS

As Regulated by Laramie County Board of Health

REVISED

~~2/1/2007~~

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MASSAGE ESTABLISHMENT REGULATIONS

WHEREAS, the Board of Health, in accordance with W.S. Section 35-1-303, for and in behalf of the City of Cheyenne and County of Laramie, State of Wyoming, has recognized a need to implement regulations concerning the operation of massage therapists and/or establishments within Laramie County, Wyoming; and

WHEREAS, such massage regulations express a desire of the Board of Health to prevent disease and pursue the promotion of public health; and

WHEREAS, such massage regulations promote the professional operation of massage therapists and/or a massage establishment.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Cheyenne-Laramie County Health Officer shall have the authority to inspect and regulate the operation of any massage therapist and/or establishments located within Laramie County, Wyoming;
2. That said inspections and regulations express the Board's desire to prevent the spread of disease and to promote public health;
3. That in the event that any massage therapist and/or establishment does not comply with the Health Officer's directive; the Health Officer shall be authorized to prohibit the massage therapist and/or establishment from operating its business. A decision of the Health Officer may be appealed to the Board of Health.
4. That a massage therapist and/or establishment may again operate, once it comes into compliance with the Health Officer's directive.
5. That massage therapists and/or establishments shall be defined and regulated as follows:

A. Authority

Authority is granted to the Board of Health for and in behalf of the City of Cheyenne and County of Laramie, State of Wyoming to implement regulations concerning the operation of massage establishments and/or therapists in accordance with W.S. Section 35-1-303.

B. Definitions

- a. "Distance Learning School" means a school or educational institution, as approved by the Cheyenne-Laramie County Health Officer, that issues an official diploma or certificate of completion to successful students completing a massage and massage affiliated curriculum consisting of not less than five hundred (500) hours of in-class, correspondence, or electronic means of instruction, or a

combination thereof, with a minimum of two hundred (200) hours of in-class hands-on practicum under the supervision of staff instructors. The school must provide enrolled students with lesson materials prepared in a sequential and logical order for home study, and each lesson, when completed, must be returned to the school for correction and grading under the supervision of a credentialed staff instructor. Distance learning schools must be licensed, if required, through the applicable state agency in the state in which the school is located.

1. If a state license is not required, the distance learning school must meet one of the following requirements:
 - a. The school's massage and massage affiliated curriculum must be reviewed, evaluated and approved by a national or international professional massage therapy organization; or
 - b. The school must have current accreditation status issued by an accreditation organization recognized by the U.S. Department of Education; or have current accreditation status issued by a national accreditation organization as approved by the Cheyenne-Laramie County Health Officer.
- b. Health Officer shall mean the Health Officer of the Cheyenne-Laramie County Health Department or his/her designated representative.
- c. Massage shall mean the administration by any person of any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, or the rubbing, stroking, kneading, pounding or tapping of the human body by any physical or mechanical means for any form of consideration. For the purposes of this chapter, massage does not mean the practice known as acupuncture.
- d. Massage establishment shall mean any establishment having a fixed place of business wherein any person, firm association or corporation engages in or carries on or permits to engage in or carry on any of the activities mentioned in this regulation. Any establishment engaged in or carrying on or permitting any type of massage for any form or consideration shall be deemed a massage establishment.
- e. Massage therapist shall mean any person, male or female, who gives or administers to another person, for any form of consideration, a "massage", as that word is defined in this regulation. This shall include those persons calling themselves massagist, masseuse or masseur.

- f. License shall mean the license to engage in the activities of a massage establishment required by this regulation.
- g. Patron shall mean any person over the age of majority (or a minor who has written consent of parent, guardian or custodian) who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore.
- h. Permit shall mean the permit to engage in the activities of a massage therapist required by this regulation.
- i. Person shall mean any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- j. “School” means a school or educational institution, as approved by the Cheyenne-Laramie County Health Officer that issues an official diploma or certificate of completion to successful students completing a massage and massage affiliated curriculum consisting of not less than five hundred (500) hours of in-class instruction, including in-class hands-on practicum under the supervision of staff instructors. The school must be licensed, if required, through the applicable state agency in the state in which the school is located.
 - 1. If a state license is not required, the school must meet one of the following requirements:
 - a. The school’s massage and massage affiliated curriculum must be reviewed, evaluated and approved by a national or international professional massage therapy organization; or
 - b. The school must have current accreditation status issued by an accreditation organization recognized by the U.S. Department of Education; or have current accreditation status issued by a national accreditation organization as approved by the Cheyenne-Laramie County Health Officer.

Effective April 1, 2007, pursuant to Wyoming Administrative Procedure Act the definition of “school” shall apply only to new applicants for a massage therapist license and will not apply to existing massage therapist licensees on file with the Cheyenne-Laramie County health Department.

- k. Specified anatomical areas shall mean the human genital, pubic and anal regions or the perineum of any person, or the vulva or breasts of a female.

C. Massage Therapist Permit

No person shall practice massage as a massage therapist, employee or otherwise, unless he/she has a valid and subsisting massage therapist permit issued by the Health Officer pursuant to the provisions of these regulations. An application for a license shall be submitted to the Health Officer.

D. Application for Massage Establishment License

Any person desiring to engage in the business, trade, profession, operation or conduct of a massage establishment as provided in this regulation shall, before engaging in such business, file an application for a license in the office of the Health Officer. The application, once accepted, shall be referred to the Sheriff's Department for investigation of the applicant's character and qualifications. Copies shall be referred to the appropriate fire department. The departments shall, within five (5) working days, inspect the premises proposed to be operated as a massage establishment and shall make written verification to the Health Officer regarding compliance with the codes that they administer. Each application shall be written on forms provided by the Health Officer and shall contain the following information.

- a. The full and true name(s) or any other name(s) used by each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership).
- b. The present address and telephone number, and social security number of each applicant.
 1. If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and each stock holder owning more than ten (10) percent of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.
 2. If the applicant is a partnership, the names and residence addresses of each partner, including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.
- c. The location, mailing address and all telephone numbers where the business is to be conducted.
- d. The two (2) previous addresses immediately prior to the present address of the present address of the applicant.
- e. Proof that the applicant is at least the age of majority.

- f. One photograph of each applicant at least two inches by two inches (2X2).
- g. Driver's license, if any and date of birth of each applicant.
- h. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
- i. The massage or similar business history of each applicant; whether such person, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
- j. All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes, and place convicted.
- k. The name and address of each massage therapist who is or will be employed in said establishment.
- l. The name and address of any person whose name is required to be given in subsection (b) wherein the business or profession of massage is carried on.
- m. A description of any other business to be operated on the same premises or on adjoining premises owned or operated by the applicant.
- n. Authorization for the Health Officer, his/her agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- o. Such other identification and information necessary to discover the truth of the matters herein before specified as required to be set forth in the application.

Upon completion of the above-provided form and the furnishing of all the foregoing information, the Health Officer shall accept the application for the necessary investigations. The holder of a massage establishment shall notify the Health Officer (who in turn will notify the appropriate departments) of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs.

E. Application for Massage Therapist Permit

Application for a massage therapist permit shall be made to the Health Officer in the same manner as provided above for massage establishment license. The application shall contain, but may not be limited to, the following:

- a. The location where massage is to be conducted or practiced and all telephone numbers of the applicant;
- b. Applicant name and residence address; social security number and all names, nicknames and aliases by which the applicant has been known, including the two (2) previous addresses immediately prior to the present address of the applicant;
- c. Driver's license number, if any, and date of birth;
- d. Applicant's weight, height, color of hair and eyes, and sex;
- e. Written evidence the applicant is at least the age of majority;
- f. A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations;
- g. Two (2) front-face portrait photographs taken within thirty (30) days of the date of application and at least two inches by two inches (2X2) in size;
- h. The name and address of the school or distance learning school attended, dates attended or enrolled and a copy of the diploma or certificate of completion awarded the applicant showing the applicant successfully completed the school's massage curriculum;
- i. Business occupation or employment history of the applicant for three (3) years prior to the date of application, including, but not limited to, whether or not the applicant in previously operating in this or another county, city or state under license or permit has had such license or permit denied, revoked or suspended and the reasons therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation;
- j. Such other information, identification and medical physical examination of the person deemed necessary by the Health Officer in order to discover the truth of the matters herein before required to be set forth in the application;
- k. Authorization for the County Health Officer and their designee to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license;
- l. Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the County;

- m. Medical certificate signed by a physician, licensed to practice in the State of Wyoming, within fourteen (14) days of the date of the application. The certificate must state the applicant was examined by the certifying physician, and include results of a tuberculosis skin test. The certificate required by this subsection is required for annual renewal of the license;
- n. Proof of high school diploma or recognized equivalent;
- o. Proof of not less than one million dollars (\$1,000,000) in individual general liability coverage;
- p. Written documentation pertaining to current membership with an established national organization associated with massage therapy, including a copy of the organization's code of ethics;
- q. Statement by applicant as to primary purpose of license (i.e. out-of-home services, in-home services or combination thereof). If in-home services desired, written approval from Planning is required. A suitable floor plan delineating the area to be utilized for the administration of in-home services shall be submitted with the application. Massage therapists may provide massages at various sites throughout the county and are not limited to the location shown on the permit;
- r. Proposed format to be used as a service register;
- s. A list of services available and the cost of such services must be available to the patron. The service must be described in readily understandable language.

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F. Issuance of License for a Massage Establishment

Upon application, the Board of Health may issue a license for a massage establishment or a permit for a massage therapist to any person it deems a proper recipient if all requirements for a massage establishment license or massage therapist permit described in these regulations are met unless it finds:

- a. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the county building, zoning and health regulations.
- b. The applicant, if an individual; or any of the stock holders holding more than ten (10) percent of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership, or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any

of the following offenses or convicted of an offense without the State of Wyoming that would have constituted any of the following offenses if committed within the last five (5) years within the State of Wyoming:

1. An offense involving the use of force and violence upon the person of another that amounts to a felony.
2. An offense involving sexual misconduct.
3. An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The Board of Health may issue a permit to any persons convicted on any of the crimes described in subsections (1), (2) or (3) of this section if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent convictions for crimes mentioned in this section.

- c. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the Health Officer in conjunction therewith.
- d. The applicant has had a massage business, massage therapist or other similar permit or license denied, revoked or suspended by any state or local agency within five (5) years prior to the date of the application.
- e. The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation or any of the partners, including limited partners, if the applicant is a partnership, and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.

G. Approval or Denial of Application.

The Board of Health shall act to approve or deny an application for a permit under this regulation within a reasonable period of time and in no event shall the Board of Health act to approve or deny said permit later than sixty (60) days from the date that said application was accepted. Every permit issued pursuant to this regulation will terminate on the expiration date specified unless sooner suspended or revoked.

H. Posting of License or Permit.

- a. Every massage therapist shall post the permit required by this regulation in his or her area or on his or her person.

- b. Every person, corporation, partnership or association licensed under this regulation shall display such license in a prominent place.
- c. Every massage establishment shall post the license required by this regulation in his or her establishment.

I. Register of Employees.

The massage establishment shall maintain a register of all persons employed at any time as massage therapists and their permit numbers. Such register shall be available at the massage establishment to representatives of the Health Officer during regular business hours.

J. Massage Establishment Operating Requirements.

- a. Each person employed or acting as a massage therapist shall have a valid permit issued pursuant to the provisions of these regulations, and it shall be unlawful for any owner, operator, responsible managing employee, manager, or licensee in charge of or in control of a massage establishment to employ or allow any person to act as a massage therapist who is not in possession of a valid permit;
- b. The possession of a valid massage establishment license does not authorize the possessor to perform work for which a massage therapist permit is required;
- c. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The service shall be described in readily understandable language. No owner, operator, responsible managing employee, manager or licensee in charge of or in control of the massage establishment shall allow and no massage therapist shall offer to perform, nor shall perform, any service other than those posted;
- d. The massage establishment business license, the massage therapist permit, and latest public health inspection form and a copy of the permit of each and every massage therapist employed by or working in the establishment shall be displayed in an open and conspicuous public place on the premises;
- e. A minimum of one toilet and washbasin shall be provided for the patrons in every massage establishment; however, if male and female patrons are to be served simultaneously at said establishment, separate toilet facilities shall be provided for male and female patrons. Hot and cold running water under pressure shall be provided to all washbasins and similar equipment. Each washbasin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room;

- f. Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted, and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets; provided, that such paper is used once for each person, then discarded into a sanitary receptacle;
- g. A separate hand wash basin shall be provided for the therapist with hot and cold running water under pressure. The wash basin must be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle will be provided near the wash basin. The hand ~~wash~~-wash basin shall be located as to be convenient, accessible and within close proximity to the massage room, table, or chair;
- h. Disinfecting agents and sanitizing equipment sufficient to assure cleanliness and safe conditions thereof shall be provided for any instruments used in performing any massage;
- i. Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material;
- j. Each establishment shall provide to all patrons clean, sanitary and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer only and shall not be reused without first being cleaned;
- k. No owners, operator, responsible managing employees, manager or licensee in charge of or in control of a massage establishment shall allow a massage to be given unless the patron's specified anatomical areas are covered during the entire massage by the covering referred to in subsection (j), unless the patron remains fully clothed.
- l. With the exception of bathrooms or dressing rooms not open to public view, now owner, operator, responsible managing employee, manager or licensee in charge of or in control of any massage establishment shall permit any person in any area within the massage establishment to which is used in common by the patrons or which can be viewed by patrons from such an area, unless such person's specified anatomical areas are fully covered;
- m. Kiosk, free standing or "common area" fully clothed massage. A fully clothed client may be given a chair massage or table massage in a non-room setting provided the client remains fully clothed and the operator meets all the requirements of Section I;

- n. No owner, operator, responsible managing employee, manager, licensee in charge of or in control of a massage establishment will permit any massage therapist to perform any service or task while in the presence of a patron or to be on the premises of a massage establishment during its hours of operation unless the massage therapist is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck. Such covering must be of an opaque material and maintained in a clean and sanitary condition;
- o. When the Health Officer has reasonable cause to suspect possible disease transmission by an employee of a massage establishment, he/she may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The Health Officer may require any and all of the following measures:
 - 1. The immediate exclusion of the employee from employment in massage establishments;
 - 2. The immediate closing of the massage establishment concerned until, in the opinion of the Health Officer, no further danger of disease outbreak exists;
 - 3. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

K. Massage therapist operating requirements.

No person will engage in, conduct or carry on the practice of a massage therapist unless each of the following requirements are met;

- a. Possession of a valid permit issued pursuant to the provisions of this chapter, a copy of which will be made available upon request;
- b. Massage therapy shall be provided only between the hours of six a. m. and nine p.m.;
- c. A list of services available and the cost of such services will be available upon request. Services must be described in readily understandable language. No massage therapist will perform or offer to perform any service other than those listed;
- d. Massage therapists shall wash their hands; prior to conducting the massage, after completing the massage and clean up and before commencing the next patrons massage. A hand wash basin shall be provided in a commercial Kiosk, free standing or "common area" setting of an establishment;

- e. Clean and sanitary towels, sheets and linens must be provided for each patron receiving massage therapy. No common use of towels or linens will be permitted and reuse is prohibited unless they have first been laundered. Heavy white paper may be substituted for sheets; provided, that such paper is used once for each person, then discarded into a sanitary receptacle;
- f. Disinfecting agents and sanitizing equipment sufficient to assure cleanliness and safe conditions thereof must be used for any instruments used in performing massage therapy;
- g. Pads used on massage tables must be covered in a workmanlike manner with durable, washable plastic or other waterproof material;
- h. Massage therapists must provide to all patrons clean, sanitary and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer only and will not be reused without first being cleaned;
- i. No massage therapist will give a massage unless the patron's specified anatomical areas are covered during the entire massage by the coverings required in subsection (h) of this section, unless the patron remains fully clothed;
- j. No massage therapist will perform any service or task while in the presence of a patron unless the massage therapist is fully covered from a point not to exceed four inches above the center of the kneecap to the base of the neck. Coverings must be of an opaque material and maintained in a clean and sanitary condition;
- k. No massage therapist will massage or intentionally touch the specified anatomical areas of another person while performing the services of a massage therapist.

L. Breast massage authorized.

a. No owner, operator, responsible managing employee, manager, permittee or licensee in charge of or in control of a massage establishment will permit any person to massage or intentionally touch the breasts of a female person while performing the services of a massage therapist unless:

1. The person holds a valid permit issued pursuant to the provisions of this chapter;
2. The person is trained in breast massage and has provided the Health Officer with proof of the name and address of the school attended to be trained in breast massage, dates attended or enrolled, and a copy of the diploma or certificate of completion awarded the applicant showing the

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applicant successfully completed the school's breast massage curriculum:
and

3. The patron signs a written consent form provided by the business and available for inspection by the sheriff and city/county health director upon request.

b. No massage therapist will massage or intentionally touch the breasts of a female person unless each of the following requirements are met:

1. The person holds a valid permit issued pursuant to the provisions of this chapter:

2. The person is trained in breast massage and has provided the Health Officer with proof of the name and address of the school attended to be trained in breast massage, dates attended or enrolled, and a copy of the diploma or certificate of completion awarded the applicant showing the applicant successfully completed the school's breast massage curriculum:
and

3. The patron signs a written consent form provided by the business and available for inspection by the sheriff and city/county health director upon request.

c. Failure to comply with these provisions will result in the suspension and/or revocation of a massage establishment license and/or massage therapist permit and may also result in criminal penalties pursuant to ~~(???)~~ WY Statutes 35-1-105, 35-1-106

~~M.~~ M. Transfer of permit.

No license or permit shall be transferable.

~~M.N.~~ M.N. Sale or transfer of location.

Upon an application for sale or relocation of a massage establishment, the application shall be treated as a new facility.

~~N.O.~~ N.O. Name and place of business.

No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his/her license, nor shall he conduct business under any designation or location not specified in his license.

~~O.P.~~ O.P. Inspection by officials.

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The Sheriff and the Cheyenne-Laramie County Health Officer, or his representatives, shall have the right as otherwise provided for by law to enter the premises from time to time for the purpose of making reasonable inspections to enforce compliance with these regulations.

The Sheriff may make undercover, random investigations as deemed appropriate by the Sheriff to insure compliance with these regulations.

P-Q. Denial, suspension or revocation of license.

- a. Denial. Within ten (10) days of the denial of an application for a massage establishment license, or a massage therapist permit, the applicant may file with the Board of Health a written request for hearing. At such hearing, to be held at a reasonable time after receipt of request, evidence shall be received for the purpose of determining whether or not such denial shall be upheld; the notification of and reason for such decisions shall be set forth in writing and sent to the applicant by means of registered or certified mail or hand delivery. During this hearing all requirements of the Wyoming Administrative Procedures Act shall be followed.
- b. Suspension or revocation. Any massage establishment license or massage therapist permit shall be subject to suspension or revocation by the Health Officer for violation of any provision of these regulations, or for grounds that would warrant the denial of the issuance of such permit in the first instance, or for the violation of any law relating to or regulating massage establishments or massage therapist.

Q-R. Separability; general repealer; effective date.

- a. If any section, subsection, sentence, clause, phrase or portion of these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- b. All regulations in conflict herewith are hereby repealed.
- c. These regulations shall be in full force and effect from and after its passage; provided, however, any person, partnership, corporation or association engaged in the operation of a massage establishment or massage therapist at the time of the enactment of this chapter shall have six (6) months, unless otherwise provided for by these regulations in which to comply with the permitting provisions of this chapter.

R-S. Exemptions.

The provisions of this regulation shall not apply to the following individuals while engaged in the personal performance of the duties of their professions:

- a. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the State of Wyoming.
- b. Registered nurses, licensed practical nurses, and nurse's aides performing massage services in the course of their usual nursing duties.
- c. Barbers and beauticians who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp, and hair of the customer or client for cosmetic or beautifying purposes.
- d. Hospitals, clinics, nursing and convalescent homes, and other similarly licensed health care facilities.

S.T. Renewal procedures.

- a. Any massage establishment license permit or massage therapist permit license issued under the provisions of this chapter shall be valid for one (1) year from the date of issuance.
- b. Any person holding a valid massage establishment license or a valid therapist permit who wishes to renew the same shall submit to the Health Officer no less than sixty (60) days but not more than ninety (90) days prior to the renewal date the same information, and documentation as required for the initial issuance as previously set forth herein.
- c. The Board of Health shall act to approve or deny an application for renewal of a permit under these regulations within a reasonable period of time and in no event shall the Board of Health act to approve or deny said permit later than sixty (60) days from the date and said renewal application was accepted by the Health Officer.
- d. Renewal fees shall be paid prior to ~~\$50.00.00~~ per renewal.

T.U. Fees.

Massage establishments and therapists shall pay to the Board of ~~Health~~Health: an application ~~and inspection fee prior to services being performed~~ of \$100.00. with said fee ~~directly relating to the application.~~ (said fees are directly related to services rendered by the Board of Health).

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ADOPTED this _____ day of _____, 200

EFFECTIVE this _____ day of _____, 200

Board of Health

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