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## CITY of NOVI CITY COUNCIL

Agenda Item I  
April 5, 2010

**SUBJECT: Approval of Resolution granting variance from massage ordinance outcall provisions for Great Lakes Art Fair.**

**SUBMITTING DEPARTMENT:** City Clerk *m.c.*

**CITY MANAGER APPROVAL:** *[Signature]*

### BACKGROUND INFORMATION:

The Novi Code of Ordinances, Chapter 20, regulating massage, massage establishments, and massage therapists, prohibits "outcall massages—massages conducted other than at a licensed massage establishment—except under certain limited circumstances.

The applicant, Rock Financial Showplace, has applied for a variance to this prohibition in order to conduct certain kinds of massages—limited massages known as "chair massages," as well as certain other traditional massages in connection with the Great Lakes Art Fair event. The City Council is permitted to grant a variance to the provisions of Chapter 20 under Section 1-12 of the City Code, which provides that a variance may be granted by the City Council from regulatory provisions of this Code when (1) a literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant; (2) the alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and (3) the granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

The City Council may determine that it would be appropriate to grant the applicant relief from the prohibition on outcall massages because of the accepted nature of the practice in connection with exposition, demonstration, and convention facilities, which often feature chair massages and other limited massages/demonstrations, and that for this particular event application of the regulation would present a practical difficulty to the applicant.

The Council could address any potential adverse effects of granting the requested variance by virtue of imposing certain conditions on the proposed massage activities. The attached resolution includes the following limitations:

1. All massages shall take place in areas open to the public and in full view of the public.
2. Individuals receiving the massages shall be fully clothed.
3. **Individuals receiving the massages shall not be charged a fee for the massage.** (Otherwise, this operates the same as a massage business).
4. All massages must be performed by either an individual exempt from the City's massage ordinance, as listed in Chapter 20, Section 20-2, or a massage therapist licensed by the City of Novi.

**RECOMMENDED ACTION:**

**Approval of Resolution granting variance from massage ordinance outcall provisions for Great Lakes Art Fair.**

	<b>1</b>	<b>2</b>	<b>Y</b>	<b>N</b>
<b>Mayor Landry</b>				
<b>Mayor Pro Tem Gatt</b>				
<b>Council Member Crawford</b>				
<b>Council Member Fischer</b>				

1402509

	<b>1</b>	<b>2</b>	<b>Y</b>	<b>N</b>
<b>Council Member Margolis</b>				
<b>Council Member Mutch</b>				
<b>Council Member Staudt</b>				

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION GRANTING VARIANCE FROM MASSAGE ORDINANCE OUTCALL  
PROVISIONS FOR GREAT LAKES ART FAIR**

Minutes of a \_\_\_\_\_ Meeting of the City Council of the City of Novi,  
County of Oakland, Michigan, held in the City Hall in said City on \_\_\_\_\_, 2010,  
at \_\_\_\_\_ o'clock P.M. Prevailing Eastern Time.

RECITATIONS:

1. The Novi Code of Ordinances, Chapter 20, regulating massage, massage establishments, and massage therapists, prohibits “outcall massages—massages conducted other than at a licensed massage establishment—except under certain limited circumstances.
2. The applicant, Rock Financial Showplace, has applied for a variance to this prohibition in order to conduct certain kinds of massages—limited massages known as “chair massages,” as well as certain other traditional massages in connection with the Great Lakes Art Fair event. The City Council is permitted to grant a variance to the provisions of Chapter 20 under Section 1-12 of the City Code, which provides:
  - (c) A variance may be granted by the city council from regulatory provisions of this Code when all of the following conditions are satisfied:
    - (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
    - (2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
    - (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.
3. The City Council has determined that it would be appropriate to grant the applicant relief from the prohibition on outcall massages because of the accepted nature of the practice in connection with exposition, demonstration, and convention facilities, which often feature chair massages and other limited massages/demonstrations, and that for this particular event application of the regulation would present a practical difficulty to the applicant.

4. The Council believes that any potential adverse effects of granting this variance can be mitigated by virtue of imposing certain conditions on the proposed massage activities.

NOW, THEREFORE, on the basis of the foregoing:

- A. The City of Novi City Council hereby authorizes the applicant, Rock Financial Showplace, to conduct or allow outcall massages, including chair massages, on the premises of its exposition facility in connection with Great Lakes Art Fair, subject to the following.
  1. All massages shall take place in areas open to the public and in full view of the public.
  2. Individuals receiving the massages shall be fully clothed.
  3. Individuals receiving the massages shall not be charged a fee for the massage.
  4. All massages must be performed by either an individual exempt from the City's massage ordinance, as listed in Chapter 20, Section 20-2, or a massage therapist licensed by the City of Novi.

PRESENT: Councilmembers \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_  
\_\_\_\_\_

The following preamble and Resolution were offered by Councilmember \_\_\_\_\_  
\_\_\_\_\_ and supported by Councilmember \_\_\_\_\_.

RECITALS:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at \_\_\_\_\_ meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

1402502



March 29, 2010

Mayor Landry  
City Council  
City of Novi  
45175 West Ten Mile Road  
Novi, MI 48374

**RE: Spa Area for Great Lakes Art Fair and Relaxation Stations at numerous events at the Rock Financial Showplace**

Dear Mayor Landry and City Council:

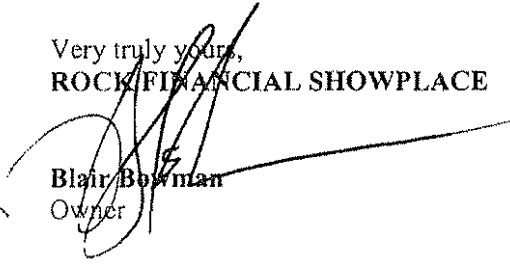
I am writing regarding a point and an issue I would have never had expected I would have to be corresponding with you about. The fact is that multiple shows, literally hundreds since the initiation of operations in the former Novi Expo Center facility, have chair massages, foot massages, make-up treatments and other services during the course of their events. As a feature of the Great Lakes Art Fair we are dedicating a small area to a "City Spa" as we have for the previous two art fair events. In this area one of Novi's finest business citizens, Visions Spa Salon, will demonstrate and provide amongst other services Ashiatsu massages, chair massages, manicures as well as having other beauty products and accessories available for purchase. This type of display is specifically provided for within the Exo Overlay District and is an absolutely common type of demonstration and display in convention and exposition centers around the country.

In discussing this with the city clerk I am confident that the ordinance provisions referenced should not apply and that any other prohibitions or laws do not in any way prevent this type of normal activity. Specifically, we are not a massage facility and like any other business or vendor participating in these shows Visions should have every opportunity to demonstrate and showcase its products and services. I understand however, there is an ordinance amendment in process and if timing does not allow for this to be completed by our April event if Council could provide either clarification as to the non-applicability of these provisions, a determination that the Exo Overlay ordinances would control and provide for this type of activity or provide a waiver if necessary.

I would like to thank you in advance for your understanding and consideration in this matter.

As always if any of you should have any questions do not hesitate to contact me.

Very truly yours,  
**ROCK FINANCIAL SHOWPLACE**

  
Blair Bowman  
Owner