

The Board of Trustees of Colerain Township, County of Hamilton, Ohio, met in regular session at 6:00 p.m. on July 13, 2010, at the Colerain Township Administration Building, 4200 Springdale Road, Cincinnati, Ohio 45251, with the following members present:

Mr. Dennis P. Deters; Mr. Jeffrey F. Ritter, and Mr. Joseph R. Wolterman

Mr. Wolterman introduced the following resolution and moved its adoption:

RESOLUTION NO. 45 - 10

RESOLUTION CREATING A TEEN CLUB PERMIT AND LICENSE,
ESTABLISHING FEES AND WAIVING THE SECOND READING
[PASSED UNDER AUTHORITY OF REVISED CODE CHAPTER 504]

WHEREAS, the Board of Trustees of Colerain Township, Hamilton County, Ohio has determined that there is an increasing occurrence of private sponsored teen events conducted within areas within Colerain Township (the "Township") resulting in requests for police intervention, arrests, and other problems for public health and safety; and

WHEREAS, the Board desires to preserve the peace, prosperity, and enjoyment of the citizens within the Township by the creation of regulations to ensure that private teen events provide a safe and enjoyable activity for patrons, without undue disturbance to surrounding properties; and

WHEREAS, the purpose of this Resolution is to regulate private teen events through the application of permit and licensing requirements to promote the health, safety, and general welfare of the patrons of such events and of all citizens of the Township, and to establish reasonable and uniform regulations for the operation of teen clubs; and

WHEREAS, it is not the intent of the Board to ban or unreasonably restrict the operation of any club which has a teenage clientele, but to provide a safe and reasonable manner in which to operate such clubs; and

WHEREAS, the Board of Trustees is acting herein under the authority granted under Chapter 504 of the Revised Code as a limited home rule governments.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Colerain Township, Hamilton County, Ohio, as follows:

SECTION I.

Definitions: For the purpose of this Resolution, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) *Employee*. Any person who works in or on the premises of a teen club business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business and whether or not the person is determined an employee, independent contractor, or agent. For purposes of this Resolution, the term *Employee* includes any natural person who has an ownership interest in the teen club business. The term *Employee* does not include a person on the premises solely for repair or maintenance of the premises, or equipment on the premises, or for the delivery of goods to the premises.

(B) *Permittee and/or Licensee*. Any person in whose name a permit and/or license to operate a teen club business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(C) *Teen Club*. All buildings and places of assembly where the majority of the patrons on any given occasion are, or are expected to be persons between the ages of 13 and 21 years (but not including persons who are 21 years old), unaccompanied by an adult parent or guardian, shall constitute a Teen Club. Teen Club shall include, but not be limited to teen nightclubs, teen dance clubs and teen entertainment establishments, even if teen events are not the only type of event conducted at such facilities, and even if at such facilities adult events are planned or conducted.

SECTION 2. PERMIT REQUIRED; CONTENTS OF APPLICATION

(A) No Teen Club business shall be permitted to operate without a valid Teen Club business permit issued by the Township.

(B) The Township Administrator, or his designee, is responsible for granting, denying, revoking, renewing, suspending and canceling permits for proposed or existing teen club businesses. To be approved, applications must comply with all requirements of this Resolution.

(C) Applications shall be made on a form provided by the Township. The Applicant shall be the owner of the Teen Club business. Applicants shall provide an original and two copies of an application attested under oath, which shall contain the following information, and be accompanied by the documents and other materials described herein:

(1) If the applicant is :

(a) An individual: the individual's legal name, aliases, Social Security number, and proof of age over 18.

(b) A partnership: the complete name and tax identification number for the partnership, all partner's names, the name(s) of the managing partner(s), and a copy of any partnership agreement.

(c) A corporation: its complete name, date and place of incorporation, tax identification number, names of all officers, directors, and stockholders owning

5% or more of all outstanding stock, name and address of its registered agent, name of the managing officer, and evidence of good standing under Ohio law, or evidence of its authority to do business in Ohio.

(d) A limited liability company: its name, date and place of filing, tax identification number, names of all officers, directors, and members owning 5% or greater interest in the company, name and address of its registered agent, name of the managing member, and evidence of good standing under Ohio law, or evidence of its authority to do business in Ohio.

- (2) The name of the Teen Club business, if different from the applicant's.
- (3) Whether the applicant or any managing partner, officer, or member, within the last five years, has had a Teen Club business or liquor establishment permit or license revoked, suspended, or denied, and the name of the business, the city or county of occurrence and the date on which the permit was suspended, revoked, or denied.
- (4) Whether the applicant or any managing partner, officer, or member hold any other Teen Club business or liquor establishment permits and the names and locations of all other such businesses.
- (5) The proposed teen event or Teen Club location, including street address and telephone number.
- (6) The applicant's or any managing partner's, officer's, or member's business and residential addresses and telephone numbers. If the applicant or any managing partner, officer, or member has been at his or her current address for less than five years, then all business and residential addresses of applicant or any managing partner, officer, or member for five years prior to the date of the application must be included.
- (7) Documentary proof of age of the Applicant, or of any managing partner, officer, or member in the form of picture identification issued by a governmental agency.
- (8) A sketch or diagram showing the configuration and total floor space of the premises, drawn to scale.
- (9) A lighting plan for all parking areas and at all entrances and exits of the Teen Club designed to provide a safe and secure environment.
- (10) A maximum occupancy statement in compliance with applicable fire code requirements.
- (11) A security plan demonstrating that the teen club has met all Township and state building and fire code requirements, and including the number and location of all access doors, and emergency exits.

(12) A sound-proofing plan that demonstrates that noise and/or vibrations shall not be heard or felt beyond the property line of any teen club.

(13) The application must be signed by the individual applicant, and each person who has at least a five percent interest in the business.

(14) Applicants are under a continuing duty to promptly update their application information. Failure to do so within 30 days of the date of a change in application information shall be grounds for permit suspension or revocation.

(15) If the Township Administrator learns that an applicant improperly completed the permit application, the Township Administrator shall notify the applicant within a reasonable time and allow ten days for correction.

(16) A \$500 non-refundable application fee is due at the time the applicant files an application under this Resolution.

(D) Prior to obtaining a permit to operate a teen club business, the applicant shall certify that the proposed location complies with the location requirements of this Resolution.

(E) By filing an application under this Resolution, the applicant shall be deemed to have consented to the provisions of this Resolution and to the investigation of the application by the Township Administrator and his designees. Such investigation shall include, but not be limited to, a criminal background check of all owner(s) and operator(s) listed on the application.

(F) The applicant is required to provide the Township with the names of all employees required to be licensed under Section 11. This obligation continues even after a permit is granted or renewed. All new employees required to obtain a license under this Resolution must be reported to the Township no later than ten business days after the employee is hired.

(G) A teen club business permit may be renewed annually upon written application, subject to the payment of a \$300 annual renewal fee, and a finding that the permit holder is still in conformance with the permit requirements.

SECTION 3. APPLICATION INVESTIGATION PROCESS

(A) Upon receipt of a completed application the Township shall send photocopies of the application to all Township departments responsible for the enforcement of health, fire, building and zoning codes and laws. Each department shall investigate the application for compliance with its respective policies and codes and approve or disapprove the application within 20 days of the receipt of the application by the Township. A department shall disapprove

an application if it finds that the business would be in violation of a specific provision of a statute, code, resolution, regulation or other law in effect in the Township.

(B) An application shall be disapproved if a criminal background check reveals that any owner, operator, partner, principal shareholder, permittee, licensee or employee has been convicted of or pleaded guilty to any of the following:

(1) A violation of Ohio Revised Code Sec. 2919.22; Ohio Revised Code Sec. 2919.24; any crime of violence as defined in the Ohio Revised Code; any violation of Ohio Revised Code Chapter 2907; or any violation of Ohio Revised Code Chapter 2925.

(2) A violation of an existing or former law of this state, any political subdivision of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1) of this section.

SECTION 4. ISSUANCE OF A PERMIT

(A) An application shall be approved or denied within 30 days from the date of the Township's receipt of a completed application except as provided under division (D) of this section. Upon approval, a permit shall be issued promptly.

(B) The permit shall state on its face the name of the person or persons to whom it is granted, the address of the teen club business, and the permit expiration date. The permit shall be posted at all times in a conspicuous place at or near the entrance to the Teen Club business.

(C) The reason for which an application may be denied include but are not necessarily limited to any of the following:

(1) An applicant is overdue on the filing of any tax return, or overdue on the payment of any taxes, fees, fines, or penalties assessed by any governmental agency in relation to a Teen Club business.

(2) An applicant's permit to operate a Teen Club business has been denied or revoked within the preceding 12 months.

(3) The premises to be used are not in compliance with township or county health, fire, and/or building codes as determined by the governmental agency responsible for determining such compliance.

(4) An applicant has failed to provide information as requested in the application or has supplied false information.

(5) The application fee or renewal fee has not been paid.

- (6) To grant the application would violate a statute, resolution, or court order.
- (7) The applicant has had a prior Teen Club permit suspended or revoked.
- (8) An applicant knowingly has in his or her employ an employee who does not have a valid license as required in this Resolution.
- (9) The business for which a permit is sought, or for which renewal of a permit is sought, has been declared a nuisance as defined under the Ohio Revised Code or under the terms of any Township Resolution.
- (10) If, after an investigation is conducted by the police, it is reasonably determined that the issuance of the permit will disturb the peace and quiet of the surrounding neighborhood.

(D) As set forth in Section 3, all Township departments responsible for the enforcement of health, fire, building and zoning codes and laws shall determine if the proposed business is in compliance with its area of regulation within 20 days of receipt of a completed application. If the applicant requests additional time to comply with a statute, code, ordinance, regulation or other law in effect in the Township, a one time extension of an additional 30 days may be given for the Township to approve or deny the application. The Township Administrator or his designee and the Township Police Officers shall at all reasonable times have access to any premises for which a permit for a Teen Club has been issued.

SECTION 5. ANNUAL PERMIT FEE

The annual renewal fee for a Teen Club business permit is \$300.00.

SECTION 6. EXPIRATION OF PERMIT

Each permit shall expire one year from the date of issuance and may be renewed by making an application under Section 2 at least 30 days before the expiration date. If a renewal is denied, a renewal shall not be issued for one year from the date of denial. If the basis for denial is delinquency in fees or taxes or an incomplete or false application, and the original defect has been corrected, and at least 90 days have elapsed from the date the denial became final, a renewal may be granted.

SECTION 7. SUSPENSION OF PERMIT

A permit to operate a teen club business may be suspended for a period not to exceed 30 days if a permittee knowingly, or an employee of a permittee intentionally violates or is not in compliance with this Resolution; works at the Teen Club business while under the influence of alcohol; fails to correct a violation of a building, fire, health or zoning code within seven days of

notification of such violation; transfers the teen club business permit to another in violation of this Resolution; or employs a person without a valid license as required in Section 11.

SECTION 8. REVOCATION OF PERMIT

(A) A permit to operate a teen club business shall be revoked when grounds exist for the permit to be suspended for a second time within a 12-month period, or upon the determination that a permittee or an employee of a permittee:

- (1) Gave false or misleading information on material issues on the permit application;
- (2) Knowingly allowed the possession, sale or use of a controlled substance or alcohol on the premises;
- (3) Knowingly operated the business while under permit suspension;
- (4) Has been convicted of tax violations for taxes or fees related to a Teen Club business; or
- (5) Knowingly operated the Teen Club business in violation of the additional operating conditions of Section 14.

(B) The length of any permit revocation shall be one year, during which time a permittee shall not receive any other permit for any other Teen Club business.

SECTION 9. REVIEW OF PERMIT DENIAL, SUSPENSION OR REVOCATION

An applicant or permittee may seek review within 30 days of the denial of an application, denial of a renewal of an application, suspension or revocation of a permit before the Board of Trustees of Colerain Township. However, during the pendency of the appeal, the denial shall stand.

SECTION 10. NO TRANSFER OF PERMIT

(A) A permittee shall not operate a Teen Club business at any place other than the address designated in the application for permit.

(B) Permits to operate a Teen Club business are not transferrable.

SECTION 11. TEEN CLUB BUSINESS EMPLOYEE LICENSE

(A) All employees of a Teen Club business are required to obtain a Teen Club business employee license and shall submit to a criminal background check as set forth in Section 3 of this Resolution, and shall pay a permit fee of \$25 to cover reasonable administrative costs. (An Owner who is a natural person shall not be required to pay the said \$25 fee). In

addition, at the discretion of the Police Chief, employees may be required to submit to a BCI and/or FBI fingerprint check, cost of which shall be borne by the employee.

(B) On a form provided by the Township the applicant shall provide his or her name, current resident and business addresses and phone numbers, proof of minimum age of 18 in the form of a state driver's license or other form of picture identification issued by a governmental agency; and a color photograph and fingerprints on a form provided by the Police Department.

(C) The application review shall be completed within ten days of filing. If requested, a temporary license may be issued pending review of the application, in the reasonable discretion of the Township Administrator or his designee.

(D) The employee license shall be issued unless the Township finds that:

(1) The employee applicant knowingly made a false, misleading or fraudulent statement of material fact;

(2) The employee applicant is under 18 years of age;

(3) The employee applicant has had an Teen Club business employee license revoked within two years of the date of the current application; or

(4) The employee applicant fails to meet the requirements of the criminal background check as set forth in Section 3.

(E) An employee license may be renewed annually upon written application subject to the payment of a \$10 renewal fee and a finding that the employee applicant is still in conformance with all application requirements.

SECTION 12. HOURS OF OPERATION

(A) All teen clubs allowing persons under the age of 14 may operate no later than 11:00 p.m.

(B) All teen clubs allowing persons aged 14 and older only may operate no later than 11:30 pm.

SECTION 13. ADMISSION

(A) No re-admission of any person shall be allowed without payment of the full admission fee required of all patrons entering the club.

(B) Parents and/or guardians and on-duty police officers shall be allowed to enter the club during all hours of operation.

(C) Parents and/or guardians and on-duty police officers shall not be subject to payment of any admission fee.

SECTION 14. ADDITIONAL OPERATING CONDITIONS

(A) The permittee shall notify the Police Chief or his designee of the maximum number of teens that will be permitted to occupy the premises at any time during any event. The notification shall be required to be submitted to the Police Chief, or designee at least seven days prior to the event. The permittee shall then provide at least four off-duty police officers for the first 200 teens permitted to attend, and one additional officer for every additional 100 teens that will be permitted to attend. Additional off-duty officers shall be hired if so directed by the Chief of Police for Colerain Township or his designated officer, as the circumstances warrant or as deemed necessary based on prior history.

(B) No noise and/or vibrations shall be heard or felt beyond the property line of any teen club, and there shall be no speaker, sound system or other device emitting noise and/or vibrations on the exterior of the building.

(C) Teen clubs shall not be allowed within 500 feet of any sexually oriented business, as defined in the Ohio Revised Code.

(D) Teen clubs shall not be allowed within 500 feet of any single family residential structure.

(E) Teen clubs shall not be allowed within 500 feet of any establishment selling alcohol.

(F) Firearms shall not be permitted on the premises except for police and certified security personnel hired by the sponsor of the event.

(G) Alcohol consumption shall not be permitted on the premises during any teen event.

(H) Alcohol may not be stored on the premises during a teen event.

(I) Additional security measures, including, but not limited to ending times, security requirements, notice to potentially affected neighborhoods, parking and pick-up areas, and identification of attendees, may be instituted by the Township Administrator to ensure the safety and welfare of the participants where prior violations by the applicant in Colerain Township or any other jurisdiction justify additional security measures be taken.

(J) Permittee shall be obligated to take affirmative steps to prevent loitering on the premises of persons not within the confines of the building's teen club.

(K) Nothing in this section relieves the permittee from compliance with any other applicable Resolution of the Township, or other local, state, or federal law or regulation

SECTION 15. EXEMPTION OF CERTAIN ORGANIZATIONS

The following shall not be subject to the provisions of this Resolution:

(A) Non-profit organizations including but not necessarily limited to churches and educational institutions, however such non-profit organizations, may not rent or lease space to another organization for a Teen Club event unless the lessee complies with the terms of this Resolution.

(B) Fraternal orders or societies conducting dances where admission is restricted to members of such orders or societies, and families of members, whether held on their own premises or on a premises leased or donated for such purposes.

(C) Places of organized sporting events where teen activities are sport-related, including but not necessarily limited to bowling lanes, and basketball, baseball, and soccer leagues.

SECTION 16. FINES, ENFORCEMENT

(A) No person shall operate a Teen Club business without a permit issued under this resolution. There is hereby established a civil fine under O.R.C. 504.05 of \$500 for the first violation of this Resolution, and \$1000 for each subsequent violation. Each day that a Teen Club business is operated with a permit issued under this resolution constitutes a separate offense.

(B) The Board finds that this Resolution is a matter of health and safety, and reserves the right to seek injunctive relief against its violation, pursuant to O.R.C. Sec. 504.08, and such other relief which may or hereafter be authorized by law.

SECTION 17. EMERGENCY – SECOND READING WAIVED

The Board hereby finds and determines that this resolution is necessary for the immediate preservation of the public peace, health, safety, or welfare of the Township, and for the further reason that its passage is necessary to prevent harm to the safety and welfare of minors who frequent such Teen Club businesses. Accordingly, the Board, by unanimous vote of its members, declares this resolution an emergency measure pursuant to O.R.C. Sec. 504.11. The Board further dispenses with the second reading of this Resolution, and authorizes its adoption upon its first reading, pursuant to O.R.C. Sec. 504.10.

SECTION 18. ACTION TAKEN IN OPEN MEETING

It is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 19. EFFECTIVE DATE

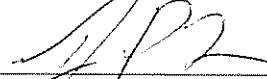
This Resolution shall be effective upon its passage.

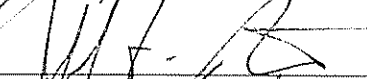
Mr. Wolterman seconded the Resolution, and the roll being called upon the question of its adoption, the vote resulted as follows:

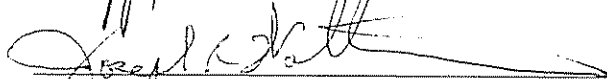
Vote Record: Mr. Deters aye, Mr. Ritter aye, Mr. Wolterman aye

ADOPTED this 13th day of July, 2010.


BOARD OF TRUSTEES:


Dennis P. Deters, Trustee

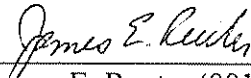

Jeffrey F. Ritter, Trustee


Joseph R. Wolterman, Trustee

Attest:



Heather E. Harlow,
Fiscal Officer

Prepared by and approved as to form:


James E. Reuter (0011414)
3025 W. Galbraith Road
Cincinnati, Ohio 45239-4222
(513) 521 - 8400
Attorney for Board of Trustees

AUTHENTICATION

This is to certify that this Resolution was duly passed and filed with the Colerain Fiscal Officer, this 13th day of July, 2010.


Heather E. Harlow,
Colerain Township Fiscal Officer