

VILLAGE OF BARTLETT

COMMITTEE AGENDA

NOVEMBER 2, 2021

BUILDING & ZONING, CHAIRMAN HOPKINS

1. Liquor Store Special Use for Package Liquor Sales
2. Proposed Text Amendments for Massage and Bodywork Establishments

EXECUTIVE SESSION

To Discuss Sale of Village Owned Property Pursuant to
Section 2(c)6 of the Open Meetings Act

To Discuss Pending, Probable or Imminent Litigation
Pursuant to Section 2(c)11 of the Open Meetings Act



Agenda Item Executive Summary

Item Name Liquor Store (955 S. Route 59) Special Use for
Package Liquor Sales Committee
or Board Committee

BUDGET IMPACT

Amount: N/A Budgeted N/A
List what
fund N/A

EXECUTIVE SUMMARY

The petitioner is requesting a Special Use Permit to sell packaged beer, wine, and liquor in a proposed liquor store to be located at 955 S. Rt. 59 in the B-3 (Neighborhood Shopping) Zoning District (Apple Valley Center).

The **Plan Commission** reviewed the petitioner's request and conducted the required public hearing at their meeting on October 14, 2021. The Plan Commission recommended **approval** of the request subject to the conditions and findings of fact outlined in the staff report.

Due to concerns raised by adjacent residents at the Plan Commission meeting, staff reached out to the petitioner to discuss reducing the store's hours. The petitioner agreed to reduce the store's hours and apply for a Class C liquor license (8:00 AM to 10:00 PM Sunday through Thursday and 8:00 AM to 12:00 midnight on Friday and Saturday) rather than the hours associated with the original request for a Class C Extended license (8:00 AM to 12:00 midnight Sunday through Thursday and 8:00 AM to 1:00 AM on Friday and Saturday).

ATTACHMENTS (PLEASE LIST)

PDS memo, Plan Commission minutes, applicant cover letter, application, location map, and floor plan

ACTION REQUESTED

- For Discussion only- *To review and forward to the Village Board for a final vote.*
- Resolution
- Ordinance
- Motion

Staff: Roberta Grill, Planning and Development Services
Director

Date: 10/25/2021

PLANNING AND DEVELOPMENT SERVICES MEMORANDUM

21-99

DATE: October 22, 2021
TO: Paula Schumacher, Village Administrator
FROM: Roberta Grill, Planning & Development Services Director 
RE: **(#21-11) Liquor Store (955 S. Route 59) Special Use for Package Liquor Sales**

PETITIONER

Dharmendra Vadnerkar

SUBJECT SITE

955 S. Route 59 (Apple Valley Center)

REQUEST

Special Use Permit to sell package liquor (beer, wine, and liquor)

UPDATE

Due to concerns raised by adjacent residents at the Plan Commission meeting, staff reached out to the petitioner to discuss reducing the store's hours. The petitioner agreed to reduce the store's hours and apply for a Class C liquor license (8:00 AM to 10:00 PM Sunday through Thursday and 8:00 AM to 12:00 midnight on Friday and Saturday) rather than the hours associated with the original request for a Class C Extended license (8:00 AM to 12:00 midnight Sunday through Thursday and 8:00 AM to 1:00 AM on Friday and Saturday).

SURROUNDING LAND USES

	<u>Land Use</u>	<u>Comprehensive Plan</u>	<u>Zoning</u>
Subject Site	Commercial	Commercial	B-3
North	Commercial	Commercial	B-3
South	Commercial	Commercial	B-2 PUD
East	Single-Family	Suburban Residential	SR-4
West	Commercial	Commercial	B-4

ZONING HISTORY

The southern portion of this property was annexed into the village in 1963 by Ordinance #1963-02 and subsequently zoned Commercial. The property was then rezoned SR-1, Suburban Residence District as a part of the 1978 comprehensive rezoning. The northern portion of this property was annexed into the village by Ordinance #1984-53 and subsequently rezoned from ER-1, Estate Residence District to SR-1 Suburban Residence District by Ordinance #1984-54. The property was later re-subdivided as a part of the Apple Valley Center Subdivision established by Ordinance #2001-82 and rezoned to the B-3, Neighborhood Shopping District.

DISCUSSION

1. The petitioner is requesting a **Special Use Permit** to sell packaged beer, wine, and liquor in a packaged liquor store in the B-3 (Neighborhood Shopping) Zoning District.
2. The proposed liquor store will also sell tobacco products and limited food items.
3. The proposed liquor store will occupy the unit of the Apple Valley Center between The Dogfather and Edible Arrangements (formerly Ultimate Travel).
4. The proposed hours of operation will be in accordance with the Class C Extended liquor license; 8:00 AM to 12:00 Midnight Sunday through Thursday and 8:00 AM to 1:00 AM on Friday and Saturday.

RECOMMENDATION

1. The Staff recommends **approval** of the petitioner's request for a special use permit subject to the following conditions and findings of fact:
 - A. Approval of a Class C Extended liquor license;
 - B. The sale of liquor shall be limited to the hours of 8:00 AM to 12:00 midnight Sunday through Thursday and 8:00 AM to 1:00 AM on Friday and Saturday, in accordance with the liquor license;
 - C. Findings of fact (special use permit):
 - i. The proposed special use is desirable to provide a use which is in the interest of public convenience and will contribute to the general welfare of the community;
 - ii. That the proposed special use will not under the circumstances of the particular case be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or be injurious to property value or improvement in the vicinity.
 - iii. That the special use shall conform to the regulations and conditions specified in the Bartlett Zoning Ordinance for such use and with the

stipulations and conditions made a part of the authorization granted by the Village Board of Trustees.

2. The Plan Commission reviewed the petitioner's request and conducted the requisite public hearing on October 14, 2021. **The Plan Commission recommended approval** of the special use permit subject to the conditions and findings of fact recommended above by the staff.
3. The petitioner has agreed to the following revised conditions:
 - A. Approval of a Class C liquor license.
 - B. The sale of liquor shall be limited to the hours of 8:00 AM to 10:00 PM Sunday through Thursday and 8:00 AM to 12:00 midnight on Friday and Saturday, in accordance with the liquor license.
4. The Plan Commission minutes, application and other background information are attached for your review and consideration.



Village of Bartlett
Plan Commission Minutes
October 14, 2021

(#21-11) 955 S. Route 59

The following exhibits were presented:

Exhibit A – Picture of Sign

Exhibit B – Mail Affidavit

Exhibit C – Notification of Publication

Exhibit D – Letter from Forest Preserve District of DuPage County

PUBLIC HEARING

The petitioner, **Dharmendra Vadnerkar** came forward and was sworn in by **J. Lemberg**.

D. Kamperschroer the petitioner is requesting a special use permit to sell packaged beer, wine, and liquor in a packaged liquor store in the B-3 (Neighborhood Shopping) Zoning District at the Apple Valley Center. The proposed liquor store will also sell tobacco products and limited food items. The proposed liquor store will occupy the unit of the Apple Valley Center between The Dogfather and Edible Arrangements (formerly Ultimate Travel). The proposed hours of operation will be in accordance with the Class C Extended liquor license; 8:00 AM to 12:00 Midnight Sunday through Thursday and 8:00 AM to 1:00 AM on Friday and Saturday. The staff recommends approval of the petitioner's request for a special use permit subject to the conditions and findings of fact outlined in the staff report.

J. Lemberg are there questions or comments from the Plan Commission? **T. Ridenour** will this comply with the other liquor stores in Bartlett including hours of operation? **K. Stone** yes. **D. Vadnerkar** stated that they would like to do business in Bartlett because of the very peaceful community and neighborhoods. **T. Ridenour** do you have any other businesses like this anywhere else? **D. Vadnerkar** yes, we have a business like this in Oakbrook Terrace, which is also in DuPage County.

J. Lemberg opened the public hearing portion of the meeting.

Tony Craig of 962 Freemont, Bartlett, came forward and stated, I live directly behind this location. I have been talking with my neighbors and we do not believe that this is the proper place for a liquor store. This is a very family-oriented area. There are no stores open later than 9:00 pm. None of those businesses serve alcohol. We do not believe there should be a liquor store here that will be open until 1:00 am. In my opinion, that is ridiculous. We had an issue with Gambit's that opened across Apple Valley. The people that back up to Gambit's are having a horrible time. We do not believe that this is a good place for a liquor store. Maybe a different type of business would be fine, but I really do not believe a liquor store is what we want in this shopping center. We already have liquor sales at Walgreen's and Suburbia Liquor less than a quarter of mile away. We also already have a liquor store in town.

J. Lemberg closed the public hearing portion of the meeting.



Village of Bartlett
Plan Commission Minutes
October 14, 2021

J. Miaso made a motion to pass along **a positive recommendation** to the Village Board to approve case **(#21-11) 955 S. Route 59** for a special use permit to sell package liquor subject to the conditions and findings of fact outlined in the staff report.

Motioned by: J. Miaso
Seconded by: A. Hopkins

Roll Call

Ayes: A. Hopkins, M. Hopkins, J. Miaso, T. Ridenour, J. Lemberg
Nays: None

The motion carried.



Village of Bartlett
Plan Commission Minutes
October 14, 2021

Old Business/ New Business

K. Stone our next meeting is scheduled for November 11, 2021. I believe that Grasslands will be coming in for phase 1, which is the single family, active-adult duplexes and active adult ranch homes. **A. Hopkins** is that off of W. Bartlett Road and Route 59. **K. Stone** yes. **J. Miaso** who is the developer going to be? **K. Stone** Crown is going to be the developer. At this point, we do not know who the builder will be.

J. Lemberg asked if there was a motion to adjourn.

Motioned by: J. Miaso

Seconded by: A. Hopkins

Motion passed by unanimous voice vote.

The meeting was adjourned at 7:13 pm.

June 30, 2021

Village of Bartlett

To whom it may concern:

Letter of business interest for retail sale in Apple Valley Plaza store located at 955 S Route 59, Bartlett IL.

We are planning to sale packaged liquor, beer, wine with packaged snacks like chips, cookies, candies, gums & prepackaged carbonated water like flavored water, soda, juice energy drinks and miscellaneous items like playing cards, cell phone chargers, some paper products, cigarette, cigars and Illinois Lottery.

If you require additional information, please do not hesitate to call.

Thank you,
Shri Corporation
Dharmendra Vadnerkar
773-329-3181



VILLAGE OF BARTLETT
SPECIAL USE PERMIT APPLICATION

For Office Use Only
Case # 2021-11
RECEIVED
PLANNING & DEVELOPMENT
JUL 01 2021
VILLAGE OF
BARTLETT

PROJECT NAME Liquor store

PETITIONER INFORMATION (PRIMARY CONTACT)

Name: DHARMENDRA VADNERKAR

Street Address: 3243 DORA ST

City, State: FRANKLIN PARK, IL

Zip Code: 60131

Email Address: [REDACTED]

Phone Number: [REDACTED]

Preferred Method to be contacted See Dropdown

PROPERTY OWNER INFORMATION

Name: Apple Valley Partners, LLC

Street Address: 955 S Route 59

City, State: Bartlett, IL

Zip Code: _____

Phone Number: _____

OWNER'S SIGNATURE: Dharmendra

Date: _____

(OWNER'S SIGNATURE IS REQUIRED or A LETTER AUTHORIZING THE PETITION SUBMITTAL.)

SPECIAL USE PERMIT REQUESTED (Please describe i.e. liquor sales, outdoor seating, etc.)

PACKAGED LIQUOR SALES

PROPERTY INFORMATION

Common Address/General Location of Property: _____

Property Index Number ("Tax PIN"/"Parcel ID"): _____

Acreage: _____

Zoning: _____
(Refer to Official Zoning Map)

Land Use: See Dropdown _____

Comprehensive Plan Designation for this Property: See Dropdown _____
(Refer to Future Land Use Map)

APPLICANT'S EXPERTS (If applicable, including name, address, phone and email)

Attorney _____

Engineer _____

Other _____

FINDINGS OF FACT FOR SPECIAL USES

Both the Plan Commission and Village Board must decide if the requested Special Use meets the standards established by the Village of Bartlett Zoning Ordinance.

The Plan Commission shall make findings based upon evidence presented on the following standards: (Please respond to each of these standards in writing below as it relates to your case. It is important that you write legibly or type your responses as this application will be included with the staff report for the Plan Commission and Village Board to review.)

1. That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.

Yes, we are excited to work with Community and Committed to provide best services for people's convenience. responsibly, responsibly

2. That such use will not under the circumstances of the particular case be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or be injurious to property value or improvement in the vicinity.

I agree with village ordinance, such use will not detrimental any under circumstances.

3. That the special use shall conform to the regulations and conditions specified in this Title for such use and with the stipulation and conditions made a part of the authorization granted by the Village Board of Trustees.

I agree and follows regulation and condition specified in title use and conditions made by authorities and by Village Board of Trustees

ACKNOWLEDGEMENT

I understand that by signing this form, that the property in question may be visited by village staff and Board/Commission members throughout the petition process and that the petitioner listed above will be the primary contact for all correspondence issued by the village.

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that I am to file this application and act on behalf of the above signatures.

Any late, incomplete or non-conforming application submittal will not be processed until ALL materials and fees have been submitted.

SIGNATURE OF PETITIONER: Dharmendra

PRINT NAME: DHARMENDRA VADNERKAR.

DATE: _____

REIMBURSEMENT OF CONSULTANT FEES AGREEMENT

The undersigned hereby acknowledges his/her obligation to reimburse the Village of Bartlett for all necessary and reasonable expenses incurred by the Village for review and processing of the application. Further, the undersigned acknowledges that he/she understands that these expenses will be billed on an ongoing basis as they are incurred and will be due within thirty days. All reviews of the petition will be discontinued if the expenses have not been paid within that period. Such expenses may include, but are not limited to: attorney's fees, engineer fees, public advertising expenses, and recording fees. Please complete the information below and sign.

NAME OF PERSON TO BE BILLED: _____

ADDRESS: _____

PHONE NUMBER: _____

EMAIL: _____

SIGNATURE: Dharmendra

DATE: _____



Location Map

955 S. Route 59

2021





Agenda Item Executive Summary

Item Name Proposed Text Amendments for Massage and
Bodywork Establishments Committee
or Board Committee

BUDGET IMPACT

Amount
: N/A *Budgeted* N/A

List
what N/A
fund

EXECUTIVE SUMMARY

Currently massage and bodywork establishments are permitted by right in commercial districts as a personal service under the Zoning Ordinance. Staff is seeking direction for the following proposed text amendments that would:

- (a) prohibit massage and bodywork establishments in all Commercial, Industrial, Public Lands and Planned Development Zoning Districts;
- (b) allow massage and bodywork establishments as accessory uses to certain principal uses (i.e. medical facilities, beauty salons/ parlors, physical therapy, chiropractic and physician's offices);
- (c) permit massage and bodywork establishments by right in the Office/Research District; and
- (d) allow massage and bodywork establishments in certain Planned Development Districts or in Planned Unit Developments where office uses are permitted by right or as a special use (i.e. Blue Heron and Southwind).

As a result of these proposed text amendments, the existing establishments located in the Commercial Districts would become nonconforming uses and would have a five (5) year amortization period within which said uses shall be discontinued.

ATTACHMENTS (PLEASE LIST)

PDS Memo, Proposed Text Amendment Ordinance

ACTION REQUESTED

- For Discussion only - *To forward the proposed amendments to the Zoning Board of Appeals for their review and to conduct the required public hearing*
- Resolution
- Ordinance
- Motion

Staff: Roberta Grill, Planning and Dev Services Director

Date: 10/25/2021

PLANNING & DEVELOPMENT SERVICES MEMORANDUM
21-101

DATE: October 25, 2021

TO: Paula Schumacher, Village Administrator

FROM: Roberta Grill, Planning & Development Services Director 

RE: **Message and Bodywork Establishments – Proposed Text Amendments**

Currently massage and bodywork establishments are permitted by right in Commercial Districts as a personal service under the Zoning Ordinance. Staff is seeking direction for the following proposed text amendments that would:

- (a) prohibit massage and bodywork establishments in all Commercial, Industrial, Public Lands and Planned Development Zoning Districts;
- (b) allow massage and bodywork establishments as accessory uses to certain principal uses (i.e. medical facilities, beauty salons/parlors, physical therapy, chiropractic and physician's offices);
- (c) permit massage and bodywork establishments by right in the Office/Research District; and
- (d) allow massage and bodywork establishments in certain Planned Development Districts or in Planned Unit Developments where office uses are permitted by right or as a special use (i.e. Blue Heron and Southwind).

As a result of these proposed text amendments, the existing establishments located in the Commercial Districts would become nonconforming uses and would have a five (5) year amortization period within which said uses shall be discontinued.

RECOMMENDATION

Staff is requesting direction from the Committee regarding the proposed text amendments. If the Committee chooses to move forward with the amendments as drafted, they would be forwarded to the Zoning Board of Appeals for their review and to conduct the required public hearing.

ORDINANCE 2021 - _____

AN ORDINANCE AMENDING THE BARTLETT ZONING CODE, TITLE 10, TO MAKE MASSAGE PARLORS, MASSAGE ESTABLISHMENTS, AND BODYWORK APPROACH BUSINESSES PROHIBITED USES IN THE B-1, B-2, B-3, B-4, I-1, I-2 EDA OVERLAY, P-1, AND PD (IN CERTAIN EVENTS) ZONING DISTRICTS; MAKING THEM ACCESSORY USES TO CERTAIN PRINCIPAL USES IN THE B-1, B-2, B-3, B-4 AND PD ZONING DISTRICTS; AND MAKING MASSAGE PARLORS, MASSAGE ESTABLISHMENTS AND BODYWORKS APPROACH BUSINESSES PERMITTED USES IN THE O-R DISTRICT AND IN ANY PD DISTRICT WHERE THE SOLE UNDERLYING ZONING IS O-R, OR WHERE O-R USES ARE PERMITTED AND/OR SPECIAL USES IN A PUD

BE IT ORDAINED by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

SECTION ONE: That Section 10-2-2 of Chapter 2, Title 10, of the Bartlett Municipal Code is amended to add the following definitions:

“BODYWORK APPROACH BUSINESS” as that term is defined in Section 3-29B-1: of the Bartlett Municipal Code.

“MASSAGE ESTABLISHMENT” as that that term is defined in Section 3-29A-1: of the Bartlett Municipal Code.

“MASSAGE PARLOR” shall mean and shall be synonymous with “massage establishment” as defined herein and as that term is defined in Section 3-29A-1 of the Bartlett Municipal Code.

“MASSAGE THERAPIST” as that term is defined in Section 3-29A-1: of the Bartlett Municipal Code.

“ASIAN BODY WORK APPROACH PRACTITIONER” as that term is defined in Section 3-29B-1: of the Bartlett Municipal Code.

“BODYWORK APPROACH PRACTITIONER”: Any person who, for any consideration or gratuity whatsoever, engages in or performs any Asian bodywork approach services or other bodywork approach services and is licensed as such by the Illinois Department of Financial and Professional Regulation.

SECTION TWO: That Title 10, Chapter 3, of the Bartlett Municipal Code is amended to make “massage parlors”, “massage establishments”, and “bodywork

approach businesses” prohibited uses in the B-1 Village Center District, B-2 Local Convenience Shopping District, B-3 Neighborhood Shopping District, B-4 Community Shopping District, I-1 Light Industry District, I-2 EDA Economic Development District, and P-1 Public Lands District; and to make “massage parlors”, “massage establishments”, and “bodywork approach businesses” a prohibited use in each PD Planned Development District except such Planned Development Districts in which the sole underlying zoning is O-R Office Research, or in which a special use or special use permit was or is hereafter granted to approve of a Planned Unit Development that includes the permitted uses listed in the O-R Office Research District by reference as permitted uses in such Planned Unit Development in such areas designated as O-R Office Research or for such O-R uses on an approved preliminary and/or final PUD Plan, notwithstanding that the list of permitted uses for said PUD may also include commercial and/or industrial uses as permitted and special uses at the time of its adoption.

SECTION THREE: That Title 10, Chapter 3, of the Bartlett Municipal Code is amended to amend Sections 10-6A-5, 10-6B-5, 10-6C-5, 10-6D-5, 10-7A-5, 10-7C-5, 10-8A-5 and 10-9A-5 to add “massage parlors”, “massage establishments” and “bodyworks approach business” as accessory uses but only incidental to the following principal uses in each of the B-1, B-3, B-3, B-4, P-1, and/or O-R and PD Zoning Districts and in Planned Unit Developments where the underlying zoning is B-1, B-2, B-3, B-4, P-1, O-R, or includes the following principal uses as permitted or special uses:

“Massage parlors”, “massage establishments”, and “bodywork approach businesses” are accessory uses only to the following principal uses:

1. Beauty parlors, provided the operation has procured a massage establishment license and/or a bodywork approach business license for said accessory use;
2. Hospitals, nursing homes, sanitoriums or any facility at which a health care worker duly licensed by the State of Illinois provides, on an ongoing basis, professional health care services to individuals, including but not limited to, an occupational therapist licensed under the Illinois Occupational Therapy Practice Act (225 ILCS 75/1, *et seq.*);
3. A physical therapist licensed under the Medical Practice Act (225 ILCS 60/1);
4. A physician licensed under the Medical Practice Act (225 ILCS 60/1, *et seq.*);
5. A naprapath licensed under the Illinois Naprapathic Act (225 ILCS 63/1, *et seq.*); or
6. A chiropractic physician licensed under the Medical Practice Act (225, ILCS 60/1).

SECTION FOUR: That Title 10, Chapter 3 of the Bartlett Municipal Code, is amended to make “massage parlors”, “massage establishments”, and “bodywork approach businesses” permitted uses in the O-R Office Research Zoning District by amending Section 10-3-2:B, and in the PD District when the underlying zoning is O-R Office Research District, and in Planned Unit Developments where the O-R uses are expressly made permitted uses, then in such areas designated O-R Office Research on an approved preliminary or final PUD Plan notwithstanding the fact that other commercial and/or industrial permitted or special uses may also be allowed in the same Planned Unit Development, and/or in the same area of an approved PUD plan by amending Table 5-1 in Section 10-5-1 to add the following uses and designations under the heading “Nonresidential Uses” and use designations therefor under the heading O-R, subject to compliance with the following Additional Standards:

Massage parlors, P, Title 3, Chapter 29A of the Bartlett Municipal Code
Massage establishments, P, Title 3 Chapter 29A of the Bartlett Municipal Code
Bodywork approach businesses, P, Title 3, Chapter 29B of the
Bartlett Municipal Code

SECTION FIVE: That Section 10-9A-3 of Title 10 of the Bartlett Municipal Code is hereby amended to add new subsection 10-9A-3:E as follows

10-9A-3:E The following are permitted uses only within the PD Planned Development District designated solely for O-R Office Research use, or in Planned Unit Developments where the underlying zoning is O-R Office Research, or within such areas of a Planned Unit Development shown and designated as O-R Office Research on an approved preliminary and/or final PUD plan, solely or in conjunction with other B-1, B-2, B-3, B-4, I-1, former I-2, I-2 EDA permitted and special uses.

SECTION SIX: That Section 10-10-2 of Title 10 of the Bartlett Municipal Code is hereby amended to state as follows:

10-10-2: NONCONFORMING USE OF LAND:

- A. The nonconforming use of land not involving a building or structure, or in connection with which any building or structure thereon that is incidental or accessory to the principal use of the land, may be continued subject to the following provisions:
1. Discontinuance of a Nonconforming Use: If a nonconforming use of any land is discontinued for a period of thirty (30) days, it shall not thereafter be renewed, and any subsequent use of such land shall conform to the regulations of the district in which such land is located.

2. Expansion of Nonconforming Use. A nonconforming use of land shall not be expanded, extended or enlarged in any way.
 3. Change to a Nonconforming Use. Whenever a nonconforming use of land is changed to or replaced by a conforming use of land, such premises shall not thereafter revert to the nonconforming use.
 4. Elimination of Nonconforming Use. The nonconforming use of land shall be discontinued and cease three (3) years from the effective date of this title in each of the following cases:
 - (a) Where no structures are employed in connection with such use.
 - (b) When the only structures or other physical improvements are accessory or incidental to such use.
- B. The nonconforming use of land involving a building or structure that is a principal use of the land or of a building or structure thereon, whether owned or leased, may be continued subject to the following provisions:
1. Discontinuance of a Nonconforming Use: If a nonconforming use of any land, including use of any building or portion of a building or structure thereon, is discontinued for a period of thirty (30) days, it shall not thereafter be renewed, and any subsequent use of such land, building and/or structure thereon shall conform to the regulations of the district in which such land is located.
 2. Expansion of Nonconforming Use. A nonconforming use of land, or building and/or structure thereon, shall not be expanded, extended or enlarged in any way.
 3. Change to a Nonconforming Use. Whenever a nonconforming use of land, or of a building or structure on said land, is changed to or replaced by a conforming use of land and/or building or structure thereon, such premises and/or the use of such building, structure or portion thereof shall not thereafter revert to the nonconforming use.
 4. Elimination of Nonconforming Use. The nonconforming use of land, and/or of any building or structure thereon, or portion thereof, shall be discontinued and cease within three (3) to five (5) years from the later of (a) the effective date of this Title; or (b) the date of passage of any ordinance amending the Zoning Code under a prior enactment of the Zoning Code, or interpretation of said prior Zoning Code by custom, make such use a prohibited use, either expressly or due to the failure in any such amendment to make it a prohibited or special use in the underlying zoning district for said land as determined by the corporate authorities based on a case by case analysis weighing the public benefit against the property owner and/or tenant's loss.

SECTION SEVEN: Elimination of Nonconforming Use. After considering the specific public purpose or interest that is being served by the elimination of “massage parlors”, “massage establishments” and “bodyworks approach businesses” as permitted or special uses in the various commercial zoning districts, but the allowance of such uses as accessory uses incidental to certain special principal uses in those commercial zoning districts, and considering the typical financial loss to affected property owners and/or commercial tenants by the elimination of such nonconforming uses, including the average purchase price of property, the amount of investment in property, including average build out costs of leased spaces for such uses, the average income earned and lost over a typical commercial lease term, and the other permitted or special uses to which the said properties and leases can still be put to use as of right and/or as a special use, the corporate authorities have determined and do hereby find that a five (5) year amortization period within which said uses shall terminate is fair and reasonable. Accordingly, the nonconforming uses of land and/or the nonconforming use of any building or structure thereon, or on a portion thereof, specifically used as a “massage parlor”, “massage establishment” and/or “bodywork approach business” as a primary use shall be discontinued and shall cease five (5) years from the enactment of this Ordinance amending the Zoning Code to make said uses prohibited uses in certain zoning districts, including the B-1, B-2, B-3, B-4, P-1 and PD Districts (except in certain circumstances) as set forth in this Ordinance.

SECTION EIGHT: SEVERABILITY. The various provisions of this Ordinance are to be considered as severable, and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION NINE: REPEAL OF PRIOR ORDINANCES. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION TEN: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED:

APPROVED:

Kevin Wallace, Village President

ATTEST:

Lorna Giles, Village Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2021-_____ enacted on _____, 2021 and approved on _____, 2021, as the same appears from the official records of the Village of Bartlett.

Lorna Giles, Village Clerk