

**VILLAGE OF BARTLETT**

**COMMITTEE AGENDA**

**FEBRUARY 1, 2022**

**BUILDING & ZONING, CHAIRMAN HOPKINS**

1. Proposed Text Amendments for Massage and Bodywork Establishments
2. Amendment of Massage and Bodywork Regulations

**EXECUTIVE SESSION**

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



# 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 fund N/A

## EXECUTIVE SUMMARY

### UPDATE

As directed by the Committee of the Whole, staff met with Austin Hopkins regarding the proposed text amendment to the zoning ordinance for massage and bodywork establishments. Mr. Hopkins brought to the staff's attention several valid points that will be incorporated into the application for a massage or bodywork establishment license. However, one (1) issue that was brought up by Mr. Hopkins that specifically relates to zoning, is the possibility that a hair and/or nail salon owner may wish to offer massage therapy as an ancillary use. The attached text amendment addresses this issue by requiring a **beauty parlor/salon to also apply for a massage or bodywork establishment license, if massage or bodywork is proposed as an accessory use.**

### PREVIOUS DISCUSSION

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:

- prohibit massage and bodywork establishments in all Commercial, Industrial, Public Lands and Planned Development Zoning Districts;
- 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);
- permit massage and bodywork establishments by right in the Office/Research District; and
- 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 Ordinance

## ACTION REQUESTED

- For Discussion only - If the Committee of the Whole chooses to move forward with the proposed amendments as drafted, they would be referred to the Zoning Board of Appeals for further review and to conduct the required public hearing.
- Resolution
- Ordinance
- Motion

**PLANNING & DEVELOPMENT SERVICES MEMORANDUM**

**22-5**

DATE: January 24, 2022

TO: Paula Schumacher, Village Administrator

FROM: Roberta Grill, Planning & Development Services Director 

RE: **Proposed Text Amendments for Massage and Bodywork Establishments**

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**UPDATE**

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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 2022 - \_\_\_\_\_

**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**

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**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 Title 10, Chapter 2, Section 10-2-2, entitled "DEFINITIONS" 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 or as a massage therapist or is issued a license or business certificate by the Illinois department of financial and professional regulation authorizing said person to perform Asian bodywork approach services and/or other bodywork approach services, or if the bodyworks approach services the person intends to perform are

exempt under Section 25 of the Massage Licensing Act, then a person issued a bodywork approach practitioner's license by the Village pursuant to Section 3-29B:\_\_\_\_\_ of the Bartlett Municipal Code.

"OTHER BODYWORK APPROACH" as that term is defined in Section 3-29B:\_\_\_\_\_ of the Bartlett Municipal Code.

**SECTION TWO:** That Title 10, Chapters 6, 7, 8 and 9, Sections 10-6A-6, 10-6B-6, 10-6C-6, 10-6D-6, 10-7A-6, 10-7C-6 and 10-8A-6 of the Bartlett Municipal Code are each amended to make and list "Massage parlors", "massage establishments", and "bodywork approach businesses" as prohibited uses thereby making them prohibited uses in each of 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 Economic Development District Area Overlay C ("I2 EDA"), and P-1 Public Lands District; and Section 10-9A-6 of the Bartlett Municipal Code is amended to add new subsection C which states that "The following are prohibited uses in any Planned Development District: "Massage parlors", "massage establishments" and "bodywork approach businesses"; and to make "massage parlors", "massage establishments", and "bodywork approach businesses" prohibited uses in each PD Planned Development District designated for commercial or industrial 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 or in such area(s) of a PUD designated as O-R Office Research designated on an approved preliminary and/or final PUD Plan as O-R Office Research or for O-R Office Research uses, notwithstanding that the list of permitted uses or special 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, Chapters 6, 7, 8 and 9, 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 of the Bartlett Municipal Code, are each amended 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 PD Zoning Districts and in Planned Unit Developments where the underlying zoning is B-1, B-2, B-3, B-4, P-1, and/or PD and 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 (i) the person, firm, partnership, limited liability company or corporation owning or operating a beauty parlor or conducting a cosmetology, esthetics, hair braiding, nail technology salon or barber shop has a certificate of registration issued by the Illinois department of financial and professional regulation and is subject to the registration requirements of the Barber, Cosmetology, Esthetics, Hair

Braiding and Nail Technology Act of 1986 (225 ILCS 410/1-1, *et. seq.*); and (ii) the operation has procured and holds a current massage establishment license pursuant to Title 3, Chapter 29A of the Bartlett Municipal Code, and/or a bodywork approach establishment business license pursuant to Title 1, Chapter 28B of the Bartlett Municipal Code for said accessory use(s);

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) or under the Illinois Physical Therapists Act (225 ILCS 90/1, *et seq.*);
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 5, Section 10-5-1: entitled "USES IN THE OFFICE/RESEARCH DISTRICT", subsection 10-5-1:A entitled "Permitted Uses" of the Bartlett Municipal Code, is amended to add "massage parlors", "massage establishments", and "bodywork approach businesses" as permitted uses in the O-R Office Research Zoning District 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 after "Offices, business and professional, including research facilities and tech centers or laboratories", 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

and amending said Table 5-1 under the heading "Miscellaneous Uses" to add "Massage parlors, massage establishments and bodywork approach businesses 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, and 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.”

**SECTION FIVE:** That Title 10, Chapter 9, Article A entitled “PD Planned Development District”, Section 10-9A-3 entitled “Permitted Uses” of the Bartlett Municipal Code is hereby amended to add new subsection 10-9A-3:E as follows

- E. Massage parlors, massage establishments and bodywork approach businesses 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 Title 10, Chapter 9, of the Bartlett Municipal Code entitled “PLANNED UNIT DEVELOPMENTS” is amended to add to Section 10-9-4: entitled “USES ALLOWED” the following new subsection 10-9-4:D which states as follows:

- D. Massage parlors, massage establishments, and bodywork approach businesses are permitted uses 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 O-R Office Research or in conjunction with other B-1, B-2, B-3, B-4, I-1, I-2 EDA permitted and special uses.

**SECTION SEVEN:** That Title 10, Chapter 10, Section 10-10-2 of the Bartlett Municipal Code is hereby repealed, and is hereby amended to replace said repealed section with new Section 10-10-2: NONCONFORMING USE OF LAND, which states 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.



C. Elimination of Massage Parlors, Massage Establishments and Bodyworks Approach Businesses as Nonconforming Uses. 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 permitted or 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, whether leased or owned, 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 three (3) 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 three (3) years from the enactment of Ordinance 2022-\_\_\_\_\_ which amended 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 said 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 Giless, 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 2022-\_\_\_\_\_ enacted on \_\_\_\_\_, 2022 and approved on \_\_\_\_\_, 2022, as the same appears from the official records of the Village of Bartlett.

\_\_\_\_\_  
Lorna Giless, Village Clerk



# Agenda Item Executive Summary

Item Name      Amendment of Massage and Bodywork Regulations      Committee or Board      Committee

## BUDGET IMPACT

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

## EXECUTIVE SUMMARY

In 2015 the village enacted ordinances to regulate and license massage establishments and bodywork establishments and license Asian bodywork practitioners to address ongoing problems with a number of massage businesses in Bartlett where employees of those businesses are arrested for prostitution. The Massage Licensing Act only provided that the state license massage therapists, so businesses similar to or in combination with massage parlors were popping up offering unregulated Asian bodywork services similar to massage and hiring individuals who had no regulation or licensing by the state or municipalities.

In August of 2019, legislature amended the Act to preempt and take over licensing of Asian bodywork approach practitioners. These statutes do not preempt municipalities from regulating the massage and bodywork businesses themselves, only the licensing of massage therapists and now Asian bodywork practitioners, leaving licensing to the DOF&PR.

The attached relined copies of proposed changes to the 2015 ordinances so we can improve the regulation of such businesses are good and necessary to comply with the Massage Licensing Act amendments.

## ATTACHMENTS (PLEASE LIST)

Memo, Code Revisions

## ACTION REQUESTED

- For Discussion Only
- Resolution
- Ordinance
- Motion:

Staff:      Bryan Mraz, Village Attorney      Date:      11/12/21

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**BRYAN E. MRAZ**  
BEM@MRAZLAW.COM

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DAVID W. GULLION  
ASSOCIATE  
DWG@MRAZLAW.COM

## MEMORANDUM

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TO: President and Board of Trustees of the Village of Bartlett  
Paula Schumacher, Village Administrator

FROM: Bryan E. Mraz, Village Attorney

DATE: January 26, 2022

RE: Amendment of Massage and Bodywork Regulations

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In 2015 the Village enacted ordinances to regulate and license massage establishments (Title 3, Chapter 29A) and bodywork establishments and license Asian bodywork practitioners (Title 3, Chapter 29B) to address ongoing problems with a number of massage businesses in Bartlett where employees of those businesses were arrested for prostitution. The Massage Licensing Act at that time only provided that the state, through its Department of Financial and Professional Regulation ("DOF&PR") license massage therapists, so at that time businesses similar to or in combination with massage parlors were popping up in Bartlett and other suburban areas and offering unregulated Asian bodywork approach services similar to massage, and hiring individuals who claimed to be Asian bodywork practitioners because there were no regulations or licensing requirements by the state or municipalities at that time. It was a loophole that the Village closed by adopting the 2015 ordinances (Chapters 29A and 29B) in particular with regard to bodyworks establishments and practitioners.

In August of 2019 the legislature amended the Massage Licensing Act to preempt and take over licensing of Asian bodywork approach practitioners. The prior statute, and the present statute as amended, do not, however, preempt municipalities from regulating the massage and bodywork businesses themselves, only the licensing of massage therapists and now Asian bodywork practitioners and practitioners of some other bodywork approaches, leaving licensing of the individual therapists and practitioners to the DOF&PR. The Massage Licensing Act also includes a number of exemptions that have created numerous loopholes and unlicensed practice, and the DOF&PF has been slow to step up and actually license bodywork practitioners.

The attached amendments address the change in the statute, but it is my opinion that municipalities with home rule powers can regulate and license not only these businesses but license individuals that practice in areas that were expressly made exempt under the Massage Licensing Act, otherwise those businesses and individuals would remain unregulated and unlicensed.

Staff also met with Austin Hopkins, who is a licensed massage therapist who was instrumental in providing information used to help draft the 2015 ordinances, and to discuss his suggestions for additional changes to the 2015 Village ordinances. As he expressed his objection at a recent Committee of the Whole meeting when the issue of the downzoning of massage establishments and bodywork establishments was discussed and recommended by staff, which included making such businesses permitted uses in the O-R Office Research District and accessory uses to certain common principal uses, but prohibited uses in the commercial and industrial districts in the Village, he filed a Freedom of Information Act ("FOIA") request to get copies of various complaints, police reports, and dispositions regarding massage businesses, and then met with staff and made suggestions primarily to beef up enforcement and enforce the 2015 ordinances to the letter, but also offered constructive possible changes to the Village's ordinances regulating massage establishments and bodywork establishments, many of which are incorporated into the redline changes to Chapters 29A and 29B before you.

Staff is of the opinion that these changes, while improving the regulation of such businesses are good and necessary not only to update the 2015 ordinance to comply with the Massage Licensing Act amendments, but also to tighten the regulations in certain regards, staff is of the opinion that while the modifications are good and necessary, that the amendments alone, due to the root of the problem, will not sufficiently address the ongoing problems caused by the majority of these businesses and the deleterious effect on surrounding properties, including the other tenants in the same commercial shopping centers and the residents who live near them. Moreover, with the proposed massage establishment downzoning, staff has included a suggested amortization of existing business from commercial areas that will become legal non-conforming uses over a period of three years, and to regulate not only those businesses in the meantime, but also in the future as to O-R Office Research District, PD and PUDs, and the accessory uses, if the Board adopts the proposed massage establishment downzoning ordinance.

Accordingly, I have attached redlined copies of proposed changes to the 2015 ordinances so that you can follow what is proposed to be modified, and suggest that those two chapters ultimately be replaced with clean copies of these new Chapter 29A: Massage Establishments and Chapter 29B: Bodywork Establishment and Licensing Requirements.



**CHAPTER 29A  
MESSAGE ESTABLISHMENTS**

**SECTION:**

- 3-29A-1: Definitions**
- 3-29A-2: Massage Establishment License Required**
- 3-29A-3: Application For Massage Establishment Business License**
- 3-29A-4: Issuance Of License For A Massage Establishment**
- 3-29A-5: Approval Or Denial Of Application**
- 3-29A-6: Posting Of License; Photo Identification Card**
- 3-29A-7: Register Of Employees**
- 3-29A-8: Notice of Revocation, Supervision, or Denial of a License**
- 3-29A-9: Revocation Or Suspension Of License; Waiting Period After Revocation**
- 3-29A-10: Hearing**
- 3-29A-11: Reimbursement Of Costs For Investigation Resulting In Business License Suspension Or Revocation**
- 3-29A-1012: Revocation Or Suspension Of Massage Therapist License**
- 3-29A-1113: Facilities Necessary**
- 3-29A-1214: Operating Requirements**
- 3-29A-1315: Persons Under Age Eighteen Prohibited On Premises**
- 3-29A-1416: Alcoholic Beverages Prohibited**
- 3-29A-1517: Hours And Massage Therapist On Premises**
- 3-29A-1618: Employment Of Massage Therapist**
- 3-29A-1719: Inspections Required**
- 3-29A-1820: Unlawful Acts**
- 3-29A-1921: Massage Establishment License; Exemptions**
- 3-29A-2022: Sale Or Transfer Or Change Of Location**
- 3-29A-2123: Name And Place Of Business**
- 3-29A-2224: Joint And Several Liability**
- 3-29A-2325: Penalty For Violation**

**3-29A-1: DEFINITIONS:**

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**APPLICANT:** Any person or entity seeking a massage establishment business license. If the applicant is a sole proprietorship, the information sought to be provided shall be for the individual owner; if a partnership, by each general and each limited partner; if a joint venture, by each joint venturer; if a corporation, by each officer and director, and unless the corporation's stock is publicly traded, by each shareholder owning or holding more than ten percent (10%) of the outstanding stock in said corporation; if a limited liability company, by each manager and by each member owning or holding more than a ten percent (10%) membership interest; if an entity is made up of one or more subentities, then the foregoing information shall be provided or for each subentity. It shall also include the business manager or other person principally in charge of the operation of the business.

**CONVICTION:** A plea of guilty or nolo contendere, finding of guilty, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States.



**EMPLOYEE:** Any person over eighteen (18) years of age, employed by or under contract with the owner of a massage establishment, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or its patrons.

**LICENSEE:** The operator of a massage establishment.

~~**MASSAGE:** Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations used in this practice, under such circumstances that it is reasonably expected that the person to whom treatment is provided, or some third party on such person's behalf, will pay money or give any other consideration or gratuity.~~

**MASSAGE or MASSAGE THERAPY:** A system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroke and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage, as licensed under the Massage Licensing Act is to enhance the general health and well-being of the mind and body of the recipient. "Massage" does not include the diagnosis of a specific pathology. "Massage" does not include those acts of physical therapy or therapeutic or corrective measures that are outside the scope of massage therapy practice as defined in the Massage Licensing Act.<sup>1</sup>

**MASSAGE ESTABLISHMENT:** Any establishment having a fixed place of business where any person, corporation, limited liability company, partnership, limited partnership, joint venture, trust, firm or association that engages in or carries on, or permits to be engaged in or carried on, a business of providing massages by massage therapists. Massage establishments shall not include bodywork establishments which are defined in and require a separate license pursuant to chapter 29B of this title.

**MASSAGE THERAPIST:** Any person who, for any consideration or gratuity whatsoever, engages in the practice of massage, and who holds a massage therapist license issued by the Illinois department of financial and professional regulation.

**OUTCALL MASSAGE SERVICE:** Any business, a function of which is to engage in or carry on massages by a massage therapist at a location designated by the customer or patron rather than at a massage establishment.

**PATRON:** Any person who is offered or receives a massage under such circumstances that it is reasonably expected that he or she will pay money or any other consideration for such massage.

**SEXUAL OR GENITAL AREA:** Genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

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<sup>1</sup> [225 ILCS 57/1, et seq.](#)



STATE LICENSE: A valid license issued by the Illinois department of financial and professional regulation to a massage therapist pursuant to the Illinois massage licensing act, 225 Illinois Compiled Statutes 57/1 et seq. (Ord. 2015-77, 10-6-2015)

### **3-29A-2: MESSAGE ESTABLISHMENT LICENSE REQUIRED:**

- A. Massage Establishment License Required: No person or entity shall engage in or carry out the business of massage unless that person or entity has a valid massage establishment business license issued by the village pursuant to the provisions of this chapter for each and every separate office or place of business in the village, unless said business is exempt under section 3-29A-19 of this chapter. However, where individuals possessing the license required in subsection B of this section, perform massage in their own homes, no massage establishment license shall be required for that home. When a licensee performs massage in his or her own home, in addition to the requirements of this chapter, the requirements of the Bartlett zoning ordinance pertaining to home occupations shall apply. ~~A person or entity, who or which, prior to the adoption of this chapter, has been issued a business license in 2015 (with an expiration date of April 30, 2016), to engage in or carry out the business of massage, as a spa, massage therapy or health club, shall be subject to this chapter, and shall be required to apply for a separate massage establishment license on or before October 31, 2015, but shall not be required to pay an additional massage establishment license fee for the period ending April 30, 2016.~~
- B. State License Required: No person shall engage in massage for compensation, unless the person has a valid state license issued by the Illinois department of financial and professional regulation pursuant to the massage licensing act, 225 Illinois Compiled Statutes 57/1 et seq., or is exempt therefrom under said act. (Ord. 2015-77, 10-6-2015)

### **3-29A-3: APPLICATION FOR MESSAGE ESTABLISHMENT BUSINESS LICENSE:**

Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application, under oath, with the village of Bartlett upon a form provided by the village clerk and pay a nonrefundable annual license fee, in the amount set forth in section 3-1-1 of this title. Copies of the massage establishment business license application shall be forwarded to the building ~~director and code enforcement division manager~~, the health inspector, and the ~~community director of planning and development director services~~. Each such director, ~~division manager~~ or inspector, or his or her designee, shall, within thirty (30) days, inspect the premises proposed to be operated as a massage establishment and upon inspection, each inspector shall file a written report with the village clerk concerning compliance with the applicable regulations. The application, once accepted, shall also be referred to the police department for investigation. The police department will perform the required criminal record check, if any. Background investigations of the applicant shall require the submission of fingerprints. The cost of the criminal record check and cost of fingerprint submissions shall be borne by the applicant. Massage therapists, ~~Asian bodywork practitioners, or other bodywork practitioners~~ holding a valid state license ~~or business certificate issued by the Illinois department of financial and professional regulation~~ shall not be required to submit to a criminal background check if he or she submits a true and accurate copy of his or her state license ~~or business certificate with his, her or its application~~. Each application shall contain the following information:

- A. A definition of service to be provided.



- B. The location, mailing address and all telephone numbers where the business is to be conducted.
- C. Federal employer identification number (FEIN) and state of Illinois business tax number (IBT).
- D. The name and residence address of each applicant (all provisions which refer to applicant include an applicant which may be a person operating as a sole proprietorship, corporation, limited liability company, partnership, [limited partnership](#), joint venture, or association).
  - 1. If applicant is a corporation, the name, primary residence address, driver's license number, social security number, and fingerprints of each officer, director and of each stockholder owning more than ten percent (10%) of the stock of the corporation or company, [\(except for any officer, director or shareholder that is a state licensed massage therapist\)](#), and the address of the corporation or company itself, if different from the address of the massage establishment. A certificate of good standing from the secretary of state of the state of its incorporation shall also be submitted
  - 2. If the applicant is a limited liability company, the name, primary residence address, driver's license number, social security number, and fingerprints of each manager and of each member that owns greater than a ten percent (10%) membership interest in said company, [\(except for any such member or manager that is a state licensed massage therapist, Asian bodyworks practitioner or other bodyworks practitioner\)](#). A certificate of good standing from the secretary of state of the state of its organization shall also be submitted.
  - 3. If applicant is a partnership, the name, primary residence address, driver's license number, social security number and fingerprints of each partner including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.
- E. The two (2) previous addresses immediately prior to the present address of the applicant.
- F. Proof that the applicant is at least eighteen (18) years of age.
- G. Individual applicant's height, weight, color of eyes, hair and sex.
- H. Copy of driver's license or state identification card.
- I. One portrait photograph of the applicant at least one inch by one and one-half inches (1" x [1 1/2"](#)) and a complete set of applicant's fingerprints [if the applicant is a sole proprietorship \(unless the sole proprietor is a state licensed massage therapist, Asian bodyworks practitioner or other bodyworks practitioner\)](#) shall be taken by the chief of police or his/her agent. If the applicant is a partnership, limited liability company, or corporation, fingerprints of any and all officers, shareholders, directors, partners, members, managers or agents of the entity (except for [state licensed massage therapists, Asian bodyworks practitioners or other bodyworks practitioners](#)) along with the fee for each.
- J. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
- K. The massage or similar business license history of the applicant; whether such person [or entity](#), previously [operating/operated](#) in this or another municipality, county or state, has had a



business license revoked or suspended, the reason for the revocation or suspension, and the business activity or occupation subsequent to such action of suspension or revocation.

- L. All criminal convictions ~~other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted of the applicant if a sole proprietor, and for each officer, director, and for each shareholder owning 10% or more of a corporation, managers and for each member owning 10% or greater membership interest in a limited liability company, for each partner of a partnership, and for each joint venturer, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted. If an entity is made up of one or more other entity, the information shall be furnished for each entity that comprises it. By way of example and not as a limitation, if a joint venture is made up of one or more corporations, then the information required above for corporations would apply to each officer, director and shareholder owning 10% or more stock in each corporation that comprises the joint venture.~~ Convictions shall mean by plea of guilty or nolo contendere finding of guilty, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions or preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States:

1. That is a felony, or
2. That is a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the professions including, without limitation, the following Illinois offenses, or if found guilty outside the state of Illinois, would constitute the same offense if committed within the state of Illinois:
  - a. An offense involving the use of force and violence upon the person of another that amounts to a felony.
  - b. An offense enumerated in any provision of article 11, entitled "sex offenses", of the Illinois criminal code, 720 Illinois Compiled Statutes 5/11-1 et seq., as amended from time to time.
  - c. A violation of the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/100 et seq., as amended from time to time.
  - d. A violation of the Illinois cannabis control act, 720 Illinois Compiled Statutes 550/1 et seq., as amended from time to time.
  - e. A felony offense enumerated in article 24, deadly weapons, of the Illinois criminal code, 720 Illinois Compiled Statutes 5/24-1 et seq., as amended from time to time, or any other offense that involves the use of weapons.

- M. The name and address of each massage therapist who is or will be employed in the establishment, including a copy of their respective state licenses as issued by the Illinois department of financial and professional regulation, and if the business intends to hire any employees or independent contractors to perform Asian bodywork approaches (see definitions in chapter 29B of this title), or other forms of bodywork (see definitions in chapter 29B of this title) or modalities that are exempt under section 25 of the massage licensing act

~~4-1~~ who are not state licensed massage therapists, a listing of the name, address, type of bodywork approach or modality that will be practiced for each employee, and for each independent contractor, and if Asian bodywork approaches or other bodywork approaches will be offered by any person other than a massage therapist or individual exempt under section 3-29A-19 of this chapter, then an Asian bodywork establishment license shall also be required for the business, and each practitioner of ~~an~~ Asian bodywork approach or other bodywork approach shall have and furnish a copy of its state license authorizing that person to perform said services or shall procure an Asian bodywork approach practitioner license as required under chapter 29B of this title.

- N. The name and address of any other business owned or operated by any person whose name is required to be given in subsection D of this section.
- O. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- P. Authorization of the village, its 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 license, and to perform criminal background investigations as required by this chapter.
- Q. Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.
- R. Applicants, who hold a valid state massage therapist license, are exempt from the fingerprinting and criminal background check requirement, if a copy of the license is submitted with the application.

Upon the completion of the above provided form and the furnishing of all foregoing information, the village clerk shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the village clerk of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs. (Ord. 2015-77, 10-6-2015)

#### **3-29A-4: ISSUANCE OF LICENSE FOR A MASSAGE ESTABLISHMENT:**

The village of Bartlett shall issue a license for a massage establishment if all requirements for a massage establishment described in this chapter are met unless it finds:

- A. The correct license fee or other fees or fines owed to the village of Bartlett have not been tendered to the village; or
- B. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the village's building licensing, zoning, and health regulations; or
- C. ~~The applicant or its~~The applicant, or any of its officers, directors, shareholders (owning 10% of stock in a corporation), managers, members (owning 10% or greater membership interest in a limited liability company), partners, or joint venturers, employees, other than massage

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<sup>1</sup> 225 ILCS 57/25



therapists, have been convicted by plea of guilty or nolo contendere, finding of guilty, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions or preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States:

1. That is a felony, or
2. That is a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the professions including, without limitation, the following Illinois offenses, or if found guilty outside the state of Illinois, would constitute the same offense if committed within the state of Illinois:
  - a. An offense involving the use of force and violence upon the person of another that amounts to a felony.
  - b. An offense enumerated in any provision of article 11, entitled "sex offenses", of the Illinois criminal code, 720 Illinois Compiled Statutes 5/11-1 et seq., as amended from time to time.
  - c. A violation of the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/100 et seq., as amended from time to time.
  - d. A violation of the Illinois cannabis control act, 720 Illinois Compiled Statutes 550/1 et seq., as amended from time to time.
  - e. A felony offense enumerated in article 24, deadly weapons, of the Illinois criminal code, 720 Illinois Compiled Statutes 5/24-1 et seq., as amended from time to time, or any other offense that involves the use of weapons.

The village of Bartlett may issue a license to any person found guilty of (or whose employees, applicant's agents, or any of them) have been found guilty of) any of the crimes described in subsections C2a through C2e of this section only if it determines that such finding of guilt occurred at least ten (10) years prior to the date of the application and the individual has had no subsequent felony findings of guilty of any nature and no subsequent misdemeanor findings of guilty for a crime or crimes set forth in this section and demonstrates that he or she has been rehabilitated.

- D. Any applicant who for himself, herself, itself has not knowingly made any false, misleading or fraudulent statement of fact or failed to disclose required information or a fact in the license application or in any other document required by the village for himself, herself, itself, or as to any of the applicant's agents .
- E. Any applicant, or any of applicant's agents, has had a massage business, massage therapy or other similar permit or license denied, revoked or suspended by the village or any other state, county, municipality or local agency within five (5) years prior to the date of the application.
- F. AnyThe applicant is or any of applicant's agents are not ~~over~~ eighteen (18) years of age or older.



- G. Copies of the state licenses of persons, who will be providing massage services at the business establishment, including outcall services, have not been provided.

The information required under this section has not been furnished. (Ord. 2015-77, 10-6-2015)

**3-29A-5: APPROVAL OR DENIAL OF APPLICATION:**

The village of Bartlett shall act to approve or deny an application for a license under this chapter within a reasonable period of time and in no event shall the village of Bartlett act to approve or deny said license later than forty five (45) days from the date that said application is complete and was accepted as complete by the village. Every license issued pursuant to this chapter will terminate on April 30 following such issuance, unless sooner suspended or revoked. (Ord. 2015-77, 10-6-2015)

**3-29A-6: POSTING OF LICENSE; PHOTO IDENTIFICATION CARD:**

- A. The state licenses issued to massage therapists, Asian bodyworks practitioners, and other bodywork practitioners shall be available for public inspection and review upon request, if said licenses are not posted and available for immediate inspection in the reception area for patrons, if any, or in the therapist's, Asian bodywork practitioner's or other bodywork practitioner's work area.
- B. Every massage therapist shall possess his or her state license and a government issued photo identification card while on the licensed premises and produce such state license and identification card upon request of any representative of the village of Bartlett.
- C. To provide outcall massage service, the massage therapist must possess a government issued photo identification card and state license in the name of the individual providing the service. (Ord. 2015-77, 10-6-2015)

**3-29A-7: REGISTER OF EMPLOYEES:**

The licensee or person designated by the licensee of a massage establishment license shall maintain a current register of all persons employed at any time all times, including employees, independent contractors and massage therapists, Asian bodywork practitioners, and other bodywork practitioners, along with their current photographs and a copy of their respective state licenses and license copies or business certificates. Such register and state license or business certificate copies shall be available at the massage establishment to representatives of the village of Bartlett during regular business hours. (Ord. 2015-77, 10-6-2015)

**3-29A-8: NOTICE OF REVOCATION OR, SUSPENSION OR DENIAL OF A LICENSE;  
WAITING PERIOD AFTER REVOCATION:**

- ~~A. Any license issued for a massage establishment may be revoked or suspended by the village of Bartlett after notice and a hearing, for good cause, or in any case where any of the provisions of this chapter are violated or where any employee, of the licensee, or any independent contractor under written or oral contract with the licensee, including a massage therapist, is engaged in any conduct which violates any of the state, county or local laws, rules, regulations or ordinances at licensee's place of business. Such license may also be revoked or suspended by the village of Bartlett after notice and hearing, upon the recommendations of the health inspector that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. Such revocation proceedings shall be as prescribed in this chapter.~~



### **OR CERTIFICATE:**

No massage establishment business license shall be revoked, suspended, or denied and refused to be issued until the applicant has received written notice from the village clerk at the address provided in the application on file with the village. The notice shall set forth the allegations of why the license should be revoked, suspended, or refused. Said written notice shall be served upon the massage establishment approach business license holder or applicant by delivering the same personally or by leaving such notice at the place of business or residence of the license holder representative or manager, if any, on file with the Village or with the applicant identified in the applicable application. The license holder shall notify the village within forty eight (48) hours of any change in the name or address of its representative, if any. If the applicable licensee cannot be found, and the service of such notice cannot be otherwise made in the manner therein provided, a copy of such notice shall be sent by certified mail, postage prepaid, and by regular mail, postage prepaid, addressed to the massage establishment business license holder at the licensee's or applicant's place of business or residence on file with the village. The revocation or suspension of a massage establishment business license shall be deemed effective three (3) business days after personal service or after the mailing of the written notice as provided herein.

### **3-29A-9: REVOCATION OR SUSPENSION OF A LICENSE:**

The massage establishment license of a business may be revoked or suspended, in addition to the fines provided for in section 3-29A-25: of this chapter, upon one or more of the following grounds:

- A. The massage establishment business license holder or person filling out and submitting the underlying application for the massage establishment business license has committed an act(s) of fraud or deceit in the application for license, or renewal thereof, submitted to the village clerk.
- B. The massage establishment business license holder is engaged in the practice of massage, Asian bodyworks approach, and/or other bodyworks approach without a state massage therapy or applicable state license therefor, or other bodywork approach practitioner license issued by the Village pursuant to Chapter 29B of this title, under a false or assumed name, or is impersonating a state licensed massage therapist, Asian bodywork approach practitioner, or other bodyworks approach practitioner of a like or different name.
- C. The massage establishment business license holder has committed an act of fraudulent, false, misleading or deceptive advertising, or prescribing medicines, drugs, or practices any other licensed profession without legal authority therefor.
- D. The massage establishment business license holder or any of its employees or independent contractors has committed an act(s) of prostitution, sexual offense, or trafficking in controlled substances after the date of issuance of a massage establishment business license.
- E. The massage establishment business license holder, massage therapist, or Asian bodywork approach practitioner working at the massage establishment premises is found to be in violation of any section of this chapter or of chapter 29B of this title.
- F. The massage establishment business license holder, or a massage therapist, or any employee or independent contractor working in the massage establishment premises, permits or engages in an act or acts of prostitution or solicitation for an act or acts of prostitution within the premises or elsewhere or permits any procedure during the performance of services within or off the premises that are performed for the purpose of sexual arousal or gratification of any



patron, or should reasonably be expected to cause such result, or permits the use of trafficking of controlled substances or cannabis on the premises.

G. The massage establishment business license holder, or any employee or independent contractor of the massage establishment business performs an act of prostitution within the premises or off the premises or solicits an act of prostitution on or off the premises or performs services within or without the premises in such a manner for the purpose of sexual arousal or gratification of a patron, or should reasonably be expected to cause such result, or the licensee uses or is trafficking in controlled substances or cannabis.

H. The massage establishment business license holder, massage therapist, or any employee or independent contractor of the bodywork approach business has violated or is not in compliance with this chapter or chapter 29B of this title and the license has been suspended within the preceding twenty four (24) months.

I. A massage establishment business license holder, massage therapist, Asian bodywork practitioner, or other bodyworks approach practitioner, or any employee or independent contractor of the massage establishment business who knowingly conducted massage activities or provided Asian bodywork approach services or other bodywork approach services in the village during a period of time when the license holder's license was suspended.

J. Within a twenty four (24) month period, a person or persons committed an offense as listed in subsection 3-29A-4:C.2. of this chapter, which substantially occurred in or on a licensed premises, and for which a conviction has been obtained, and the person was a massage therapist or was an employee or independent contractor under contract of the massage establishment business license holder at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

K. A massage establishment business license holder is delinquent in payment to the village for ad valorem taxes or other taxes or fees related to the massage establishment.

A.L. If a license has been revoked for any cause, no license shall be granted to any person for the conduct of the business of a massage establishment at that location for a period of three (3) years. (Ord. 2015-77, 10-6-2015)

### **3-29B-10: HEARING:**

A. Any applicant, owner, massage establishment business license holder who receives a notice of denial, revocation or suspension may file a request for hearing with the village administrator as provided herein. Such request shall be filed with the village clerk in writing no later than ten (10) business days following personal delivery or mailing of the notice, and shall include a response to the village clerk's notice. Such response shall include a brief statement addressing the alleged substantive deficiencies and/or violations cited in the village clerk's notice and shall set forth the basis for why the license should not be denied, revoked or suspended. If a request for hearing is filed of an order of the village clerk denying, or the Village Administrator suspending or revoking a license, such denial, suspension or revocation shall be stayed pending final order of the village administrator as provided in this section. If a request for hearing is not filed, the village administrator may review the allegations and any other pertinent material, and enter a ruling revoking, suspending or confirming the refusal to issue a license.



- B. When any applicant or massage establishment business licensee requests a hearing, the village administrator shall schedule an informal public hearing not later than twenty one (21) days following receipt of such hearing request. The village administrator may designate a hearing officer to schedule, convene and conduct the hearing. In such case, the hearing officer shall have the same powers as the village administrator to administer oaths and to continue the hearing from time to time to permit the applicant or licensee, as the case may be, to provide additional information. The purpose of the hearing will be to offer the applicant or licensee an opportunity to show cause why the application should not be denied, or the license suspended or revoked. A record shall be made of the hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. The Illinois code of civil procedure shall not be applicable to such hearing. Hearsay may be admissible so long as the village administrator or hearing officer determines that it bears an indicia of reliability and so long as the rules associated with hearsay are equally applied to all participants in the hearing. This record may be made by electronic recording. Where such designation has been made, the hearing officer shall submit proposed findings and recommendations to the village administrator within fourteen (14) days of the close of the hearing.
- C. Any violation of this chapter or unlawful act of any licensee, massage therapist, employee, or any independent contractor under contract with such business, of a licensed massage establishment business committed on a licensed premises shall be attributable to the licensed massage establishment business.
- D. Within twenty-one (21) days after the close of hearing set forth in subsection B of this section, the village administrator shall make written findings of fact and issue an appropriate order. A copy of such order shall be promptly served upon the applicant, owner, or massage establishment business license holder. If the village administrator determines that the license should be revoked or suspended, the suspension or revocation shall take effect immediately upon receipt unless otherwise specified.
- E. The decision of the village administrator as provided in subsection D of this section shall be the final administrative action of the village with respect to the license or application, and shall be subject to the immediate appeal by the applicant, massage establishment business license holder to the circuit court of Cook County. Such appeal to the circuit court under the administrative review act shall be filed not later than thirty five (35) days following receipt of the village administrator's findings and order. Failure to file such appeal as provided herein shall render the village administrator decision final.

### **3-29A-9-11: REIMBURSEMENT OF COSTS FOR INVESTIGATION RESULTING IN BUSINESS**

#### **LICENSE SUSPENSION OR REVOCATION:**

In the event that the village of Bartlett conducts an investigation of a licensed massage establishment, which results in the revocation or suspension of its massage establishment business license, the licensee shall reimburse the village for any and all of the village's costs for the investigation. Failure to pay such costs within ten (10) days' written notice from the village shall result in the continuance of any suspension until such time as those costs are paid and no massage establishment business license shall be issued or renewed for such a business at the same location until such costs have been paid to the village. The village shall have such additional or further remedies for collection of such costs as are available by law. (Ord. 2015-77, 10-6-2015)

### **3-29A-4012: REVOCATION OR SUSPENSION OF MASSAGE THERAPIST LICENSE:**



A massage therapist license, [or Asian bodywork approach practitioner license, or other bodywork approach practitioner license](#) issued by the state may be revoked or suspended [by the state](#) in accordance with the Illinois massage licensing act, 225 Illinois Compiled Statutes 57/1 et seq., as it may be amended from time to time. The chief of police shall report any and all suspected violations to the massage licensing board and to the [Illinois](#) department of financial and professional regulation [or similar entity if the massage therapist license is issued by another state.](#) (Ord. 2015-77, 10-6-2015)

### **3-29A-~~4113~~: FACILITIES NECESSARY:**

Every location for which a massage establishment license is sought shall, in addition to meeting all other village regulations, comply with the following:

- A. The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
- B. Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
- C. The minimum number of plumbing fixtures shall be provided and maintained as required by the building code or this chapter, whichever is more restrictive. (Ord. 2015-77, 10-6-2015)

### **3-29A-~~4214~~: OPERATING REQUIREMENTS:**

- A. Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary manner.
- B. Prices for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- C. All employees [and independent contractors](#), including massage therapists, shall be clean and wear clean, nontransparent outer garments.
- D. All massage establishments shall be provided with clean, laundered sheets and towels which shall be laundered after each use by an individual patron and stored in a sanitary manner. All towels and linens furnished for use of one patron shall not be refurnished for use of another patron until laundered.
- E. The sexual or genital areas of patrons must be covered with nontransparent towels, cloths, or undergarments when in the presence of an employee, [independent contractor of the licensee,](#) or massage therapist.
- F. All walls, ceilings, floors, pools, showers, baths, and steam rooms and any other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the massage establishment is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

- G. Oils, creams, lotions, and other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- H. Each massage therapist shall wash his or her hands in hot running water using a proper soap or disinfectant before administering massage to any patron.
- I. No massage therapist, employee, or licensee shall perform, offer, or agree to perform any act which shall require the touching of a patron's sexual or genital area.
- J. Any reception or waiting area shall be open to the public and visible from outside of the immediate entrance, e.g., storefront windows and any entrance door shall be transparent and unobstructed. Any exterior windows or doors with a view to the waiting area or reception area must be free of any posting or material that would obstruct the view of the waiting area or reception area from the outside of the establishment.
- K. No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.
- L. No massage establishment granted a license under the provisions of this chapter shall depict, place, publish, distribute, or cause to be depicted, placed, published, or distributed any advertising matter that suggests to prospective patrons that any services are available other than those services permitted by this chapter, or which would suggest that employees or massage therapists are dressed in any manner other than that permitted by this chapter.
- M. No advertising will suggest or describe the physical characteristics of employees or massage therapists.
- N. No person shall be denied a massage or access to the massage establishment because of gender. (Ord. 2015-77, 10-6-2015)

**3-29A-~~43~~15: PERSONS UNDER AGE EIGHTEEN PROHIBITED ON PREMISES:**

It shall be unlawful to permit any person under the age of eighteen (18) years to be offered or receive a massage at any massage business establishment unless accompanied by, or with written consent of, a parent or legal guardian. (Ord. 2015-77, 10-6-2015)

**3-29A-~~44~~16: ALCOHOLIC BEVERAGES PROHIBITED:**

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on any premises used in any way for or by a massage business, patron or massage therapist. (Ord. 2015-77, 10-6-2015)

**3-29A-~~45~~17: HOURS AND MASSAGE THERAPIST ON PREMISES:**

No portion of any business premises used in any way for or by a massage business shall be kept open for any purpose between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M., and there shall be at least one state licensed massage therapist present on the business premises at all times when the massage establishment is open for business. (Ord. 2015-77, 10-6-2015)

**3-29A-~~46~~18: EMPLOYMENT OF MASSAGE THERAPIST:**



No person shall employ, as an employee or independent contractor, as a massage therapist, any person unless the employee or independent contractor has obtained and has in effect a state license issued by the Illinois department of financial and professional regulation pursuant to the Illinois massage licensing act, 225 Illinois Compiled Statutes 57/1 et seq., as it may be amended from time to time. If a massage establishment employs any person or hires any independent contractor who is not a stated licensed massage therapist, Asian bodywork approach practitioner, or other bodywork practitioner, but who performs or willis employed to perform any Asian bodywork approach or other bodywork approach, the establishment shall also procure a bodyworks establishment business license pursuant to chapter 29B of this title, and any person that will perform Asian bodywork approaches approach services or other bodywork approach services that is not a massage therapist, shall first procure or holder of an Asian bodywork approach practitioner's license from the state or other bodywork approach practitioner's license or business certificate from the Illinois department of financial and professional regulation shall be required to procure another bodywork approach practitioner license from the village in accordance with the requirements of chapter 29B of this title. (~~Ord. 2015-77, 10-6-2015~~)

### **3-29A-1719: INSPECTIONS REQUIRED:**

Upon issuance of a massage establishment business license, in addition to the inspection requirements of section 3-29A-3 of this chapter, the licensee shall provide any representative of the village with reasonable opportunity to inspect the premises for which the permit is issued and to interview the licensee's agents, employees, and independent contractors under oral or written contract to perform massages on the business premises or off site for the purpose of determining that the provisions of this chapter and other applicable ordinances and state and federal laws are being complied with. It shall be unlawful for any person to fail to allow any representative of the village access to the premises of the massage establishment or to hinder such access or to fail to provide any such required information and documentation in any manner. (~~Ord. 2015-77, 10-6-2015~~)

### **3-29A-1820: UNLAWFUL ACTS:**

- A. It shall be unlawful for any person, in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any other person.
- B. It shall be unlawful for any person, in a massage establishment, to expose his or her sexual or genital area to any other person. It shall also be unlawful for any person, in a massage establishment, to expose the sexual or genital area of any other person.
- C. It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital area of his or her body.
- D. It shall be unlawful for any person to perform, offer or agree to perform any act which shall require the touching of a patron's sexual or genital area or any unlawful act, as defined in 720 Illinois Compiled Statutes 5/11-14, 5/11-14.1, 5/11-14.3, and 5/11-14.4, which are incorporated as now or hereafter amended.
- E. It shall be unlawful for any person owning, operating or managing a massage establishment, to cause, allow or permit in or about such massage establishment, any agent, employee or any other person under his or her control or supervision to perform such acts prohibited in subsection A, B, C or D of this section.



- F. It shall be unlawful for any licensee under this chapter to administer or permit massage within the village, except within the establishment licensed to carry on such business under this chapter or as outcall massage service.
- G. It shall be unlawful for any massage service to be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. Toilets and cubicles used solely for the application of liquid and vapor baths shall be clearly marked as to purposes on the exterior door or curtain of the cubicle, room or booth. Nothing contained in this chapter shall be construed to eliminate any other regulation concerning the maintenance of premises, or to preclude authorized inspection of any premises, whenever such inspection is deemed appropriate by the police or health departments. (Ord. 2015-77, 10-6-2015)

### **3-29A-19: MASSAGE ESTABLISHMENT LICENSE; EXEMPTIONS:**

The ~~massage establishment license, otherwise required under provisions of~~ this chapter, shall not be required for hospitals apply to:

1. ~~Hospitals, nursing homes, sanatoriums, or any facility at which a healthcare worker duly licensed by the state of Illinois provides, on an ongoing basis, professional health services to individuals, or persons holding an unrevoked certificate to practice the healing arts under the laws of the state of Illinois, or to those working under the direction of any such persons in any such businesses, including, but not limited to, the offices of an occupational therapist licensed under the Illinois occupational therapy practice act, 225 Illinois Compiled Statutes 75/1 et seq.;<sup>1</sup> a physical therapist licensed under the medical practice physical therapy act, 225 Illinois Compiled Statutes 60/1 et seq.;<sup>2</sup> a chiropractor physician or chiropractic physician licensed under the medical practice act, 225 Illinois Compiled Statutes 60/1 et seq.; and<sup>3</sup> a naprapath listed licensed under the Illinois naprapathic practice act, 225 Illinois Compiled Statutes 63/1 et seq. (Ord. 2015-77, <sup>4</sup>~~
2. ~~Any barber, cosmetologist, esthetician or nail technician lawfully carrying on their respective businesses to the extent authorized under a valid unrevoked license or certificate of registration issued by the state of Illinois; provided, however, this exemption is only intended to permit normal and customary barbering, cosmetology, esthetic and nail technology services which involve incidental physical contact, such as scalp rubs, facials, and hand manipulations which otherwise qualify as massage activities or bodywork approach services. This exemption is not intended, and does not permit, general massage activities as part of any barber, cosmetologist, esthetician or nail technician business beyond that authorized by their state license or certification.~~
3. ~~Any athletic trainer registered in the state of Illinois who administers such athletic related massage or bodywork approach services in the normal course of training duties.~~

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<sup>1</sup> 225 ILCS 75/1 et seq.

<sup>2</sup> 225 ILCS 90/1 et seq.

<sup>3</sup> 225 ILCS 60/1, et seq.

<sup>4</sup> 225 ILCS 63/1 et seq.



4. Bona fide health/sport establishments which allow persons of all ages on the premises and which meet the following criteria:
  - a. The primary purpose of the establishment is health and fitness; massage and bodywork service is subsidiary;
  - b. No more than twenty percent (20%) of the establishment revenue is derived from massage services and/or bodywork approach services; and
  - a-c. Massage and/or bodywork approach facilities shall not occupy more than ten percent (10-6-2015)% of the establishment's building or leased space.
5. Physicians, podiatric physician, or chiropractic physician licensed under the Medical Practice Act.<sup>1</sup>
6. Naprapath licensed under the Illinois Naprapathic Act.<sup>2</sup>
7. Physical therapist licensed under the Medical practice Act.<sup>3</sup>
8. Occupational therapist licensed under the Illinois Occupational Therapy Act.<sup>4</sup>

**3-29A-20: SALE OR TRANSFER OR CHANGE OF LOCATION:**

~~Upon sale, transfer or relocation of a massage business or the relocation of the massage establishment, the massage establishment license shall be null and void. (Ord. 2015-77, 10-6-2015)~~

**3-29A-21**

- A. Any massage establishment business license issued pursuant to this chapter shall be applicable only to the massage establishment business licensee and location designated in such license, and may not be sold, transferred, or otherwise assigned. Provided, where the licensee remains the same, but a request is made to designate and substitute a different location, the village clerk may approve such new location upon submission of proof that such location is in compliance with this chapter. A fee of fifty dollars (\$50.00) shall be required for processing such location changes.
- B. Any massage establishment license issued pursuant to this chapter shall be applicable only for the specific business designated, and may not be sold, transferred or otherwise assigned, except where ownership of the business remains identical.
- C. A transfer in the ownership or control of massage establishment business shall constitute change in the licensee and the existing license shall be deemed surrendered, extinguished and void. A new application and license shall be filed and processed as provided in section 3-

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<sup>1</sup> 225 ILCS 60/1 et seq.

<sup>2</sup> 225 ILCS 63/1, et seq.

<sup>3</sup> 225 ILCS 60/1, et seq.

<sup>4</sup> 225 ILCS 75/1 et seq.



29A-5 of this chapter prior to such transfer taking effect. Any transfer in the ownership of a massage establishment business in violation of this chapter shall constitute operation of such business without a license.

D. Any proposed changes in ownership, management and/or including a new sole proprietor, or change as to the general partners in a partnership, joint venturers in a joint venture, member(s) or manager(s) in of a limited liability company, officer(s), director(s), and shareholder(s) holding directly or beneficially more than ten percent (10%) of the stock in a corporation licensed under this chapter, shall be reported in writing to the village clerk not less than thirty (30) days prior to the proposed change. All new personnel, including a new sole proprietor, general partner, joint venturer, manager or member owning a ten percent (10%) or greater membership interest of an LLC; officer, director and shareholder of a corporation who owns more than ten percent (10%) of the common stock of a corporation shall meet all the standards of this chapter and must otherwise qualify to hold a massage establishment business license under this chapter just as if such person was applying for a massage establishment business license individually. All such changes in personnel shall be subject to review and approval by Village Administrator.

1. When a license has been issued to a partnership or joint venture and a change of ownership occurs resulting in a change in the general partnership interest or joint venture interest of ten percent (10%) or more in said partnership or joint venture, such license shall terminate and the partnership or joint venture shall surrender its existing license and reapply for a new license.

2. When a license has been issued to an LLC and a change takes place in the manager(s) and/or members who own a ten percent (10%) or more membership interest in said LLC, such license shall terminate and the LLC shall surrender its existing license and reapply for a new license.

3. When a license has been issued to a corporation and a change takes place in the officers, directors and/or shareholders who own ten percent (10%) or more of the stock of the corporation, resulting in the holding of office, director's position, or ownership interest, such license shall terminate and the corporation shall surrender its existing license and reapply for a new license. This section shall not be applicable to corporations whose stock is publicly traded on recognized national stock exchanges, provided the corporation continues to meet, all of the standards of this chapter.

E. No massage establishment business shall use the name or telephone number of a prior massage establishment business after the transfer of ownership or control of massage establishment business or any name or telephone number which is different than those in the application for the massage establishment business license issued by the village.

**3-29A-23: NAME AND PLACE OF BUSINESS:**

No person or entity granted a massage establishment license pursuant to this chapter shall operate the massage establishment under a name not specified in the license, nor shall the person conduct business under any designation or location not specified in the license, except that the location for outcall massage service by massage therapists need not be specified on the license. (Ord. 2015-77, 10-6-2015)

**3-29A-2224: JOINT AND SEVERAL LIABILITY:**

Any act or failure to act of an employee, a person performing massage at or on behalf of a massage establishment as an independent contractor or otherwise, or an agent of the licensee with respect to the licensed business shall be deemed to be the act of the licensee. The licensee and individual committing a violation are jointly and severally liable for any fines or penalties assessed pursuant to this chapter. (Ord. 2015-77, 10-6-2015)

**3-29A-2325: PENALTY FOR VIOLATION:**

- A. Any person violating any provisions of this chapter shall be punished by a fine in the amount of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). A separate offense shall be deemed committed each time on each day during or on which violation occurs or is permitted to occur.
- B. Whenever a person, corporation, limited liability company, partnership, joint venture, firm and/or other entity violates any of the provisions of this chapter, the village may cause appropriate legal actions and proceedings, in law or in equity, to be instituted and maintained to enforce compliance herewith. (Ord. 2015-77, 10-6-2015)



**CHAPTER 29B**  
**BODYWORK ESTABLISHMENTS AND LICENSING**  
**REQUIREMENTS FOR PRACTITIONERS OF ASIAN**  
**BODYWORK APPROACHES**

**SECTION:**

- 3-29B-1: Definitions**
- 3-29B-2: Bodywork Approach Business License**
- 3-29B-3: Asian Bodywork Approach Practitioner's License Required**
- 3-29B-4: Exemptions**
- 3-29B-5: Application For Bodywork Approach Business License And Initial Inspections**
- 3-29B-6: Application For Village Asian Bodywork Approach Practitioner License And Minimum Qualifications**
- 3-29B-7: ~~Minimum Qualifications For Other Bodywork Practitioners~~ Repealed**
- 3-29B-8: Application Processing**
- 3-29B-9: Posting Of License, Photo Identification Card**
- 3-29B-10: Limitation On Issuance And Renewal Of License**
- 3-29B-11: Fees**
- 3-29B-12: Expiration Of Bodywork Approach Business License, Practitioner License, And Renewal**
- 3-29B-13: Bodywork Approach Business Facilities And Operating Requirements**
- 3-29B-14: Persons Under Age Eighteen Prohibited On Premises**
- 3-29B-15: Alcoholic Beverages Prohibited**
- 3-29B-16: Hours**
- 3-29B-17: Prohibited Acts And Conditions**
- 3-29B-18: Premises Restrictions**
- 3-29B-19: Periodic Inspections Of Bodywork Approach Businesses And Premises**
- 3-29B-20: Transfer, Changes Of Ownership Or Management**
- 3-29B-21: Joint And Several Liability**
- 3-29B-22: Notice Of Revocation, Suspension Or Refusal Of A License Or Certificate**
- 3-29B-23: Revocation Or Suspension Of A License**
- 3-29B-24: Hearing**
- 3-29B-25: Reimbursement Of Costs For Investigation Resulting In Business License Suspension Or Revocation**
- 3-29B-26: Penalty For Violation**

**3-29B-1: DEFINITIONS:**

The following words or phrases shall have the meanings ascribed to them below, unless otherwise indicated by the context:

**AOBTA:** The American Organization For Bodywork Therapies Of Asia.

**APPLICANT:** Any person or entity seeking bodywork approach business license. If the applicant is a sole proprietorship, the information sought to be provided shall be for the individual owner; if a partnership, by each general and each limited partner; if a joint venture, by each joint venturer; if a corporation, by each officer, director and shareholder; if a limited liability company, by each manager and by each member owning or holding more than a ten percent (10%) membership interest; if another entity, the information shall be provided for each trustee, beneficiary and/or owner. It shall also include the operations manager or other person principally in charge of the operation of the business. Applicant shall also include any person seeking an Asian bodywork approach practitioner's license.



**ASIAN BODYWORK APPROACH:** The treatment of the human body, and purported treatment of the human mind and spirit, including the electromagnetic or energetic field which surrounds and infuses it, by using pressure and/or manipulation of the soft tissue and acupoints of the human body based on Chinese medical principles for assessing and evaluating the human body's energetic system. It uses traditional Asian techniques and treatment strategies to primarily affect and balance the energetic system for treating the human body, emotions, mind, energy field and spirit for the promotion, maintenance and restoration of human health. Methods of assessment and evaluation include the Chinese Four Pillars of examination, observation, listening, asking, and touching. Assessments are based primarily on Chinese medicine parameters relating to the balance and circulation of the Five Essential Substances: Qi, Jing, Shen, Xue and Jin-ye. Treatment may include touching, pressing or holding of the body along meridians and/or on acupoints primarily with the hands, stretching, external application of medicinal plants or foods, heat or cold applications to the body, and dietary and/or exercise suggestions. Cupping, guasha, moxibustion and other methods and modalities may also be used, such as shiatsu, acupressure, Amma, Qigong, acupuncture, biomedicine, Tui Na, Jin Shin, Jyutsa, Chi Nei Tsan, Jin Sin Do, Thai bodywork and other trademark or other forms recognized by AOBTA.

**ASIAN BODYWORK APPROACH PRACTITIONER:** Any person who performs any Asian bodywork approach services to patrons or any person under such circumstances that it is reasonably expected that the person to whom such Asian bodywork approach services are provided, or some third party on such person's behalf, will pay money or any other consideration or gratuity therefor, and who holds a massage therapy license to perform Asian bodywork approach services or other bodywork approach services, or an Asian bodywork approach practitioner's license issued by the Illinois department of financial and professional regulation, or if exempt under Section 25 of the Massage Licensing Act, hold an Asian bodywork practitioner's license issued by the Village pursuant to Section 3-29B of this Chapter.

**BODYWORK APPROACH BUSINESS or BODYWORK APPROACH ESTABLISHMENT:** A person acting as a sole proprietor, or a corporation, limited liability company, partnership, joint venture, association, firm or entity having a source of income or compensation derived from the practice of one or more Asian bodywork approaches or other bodywork approaches, and which has a fixed place of business where any person, corporation, limited liability company, partnership, joint venture, association, firm or entity engages in or carries on, or provides Asian bodywork approach services or other bodywork approach services and/or hires employees, or agents or enters oral or written contracts with individuals or independent contractors to perform Asian bodywork approach or other bodywork services for patrons for money, other consideration, or any gratuity.

**BODYWORK APPROACH PRACTITIONER:** Any person who performs and/or provides an Asian bodywork approach and/or other bodywork approach services to patrons or any person under such circumstances that it is reasonably expected that the person to whom such Asian bodywork approach or other bodywork approach services are provided, or ~~some third party, on such person's behalf will pay money or give other consideration or any gratuity therefor.~~ to some third party on such person's behalf, will pay money or give other consideration or any gratuity therefor, and who holds a massage therapist license to perform Asian bodywork approach services or other bodywork approach services and not other massage services, or an Asian bodywork practitioner's license or other bodywork approach practitioner's license issued by the Illinois department of financial and professional regulation, or if the other bodywork approach services or modalities proposed to be, or are being provided is or are exempt from licensure under Section 25 of the



Massage Licensing Act, then a person issued a bodywork approach practitioner's license issued by the Village pursuant to Section 3-29B- of this Chapter..

**CONVICTION:** A plea of guilty or nolo contendere, finding of guilty, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States.

**EMPLOYEE:** Any person who renders any service in connection with the operation of a bodywork approach business and receives compensation from the operator of the business or patrons. All employees of a bodywork approach business shall be over the age of eighteen (18).

**LICENSEE:** The operator of a bodywork approach ~~establishment business license and/or any person~~ who holds a bodywork approach ~~practitioner's establishment business~~ license issued by the village.

~~**MASSAGE:** Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with hands or with aid of any mechanical or electrical apparatus or appliance, with or without rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations used in this practice, under such circumstances that it is reasonably expected that the person to whom treatment is provided, or some third party on such person's behalf, will pay money or give other consideration or any gratuity therefor performed by a state licensed massage therapist and which may include any bodywork approaches if performed by a state licensed massage therapist.~~

**MASSAGE or MASSAGE THERAPY:** A system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroke and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage, as licensed under the Massage Licensing Act is to enhance the general health and well-being of the mind and body of the recipient. "Massage" does not include the diagnosis of a specific pathology. "Massage" does not include those acts of physical therapy or therapeutic or corrective measures that are outside the scope of massage therapy practice as defined in the Massage Licensing Act.<sup>1</sup>

**MASSAGE BUSINESS:** A person acting as a sole proprietor, or a corporation, limited liability company, partnership, joint venture, association, firm or other business or entity having a source of income or compensation derived from the practice of massage by one or more massage therapists.

**MASSAGE THERAPIST:** Any person who for consideration or gratuity performs a massage and who holds a valid massage therapy license issued by the Illinois department of financial and professional regulation.

**NCBTMB:** The National Certification Board Of Therapeutic Massage And Bodywork.

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<sup>1</sup> 225 ILCS 57/1, et seq.



NCCA: The National Commission For Certifying Agencies.

NCCAOM: The National Certification Commission For Acupuncture And Oriental Medicine.

NOBTA: The National Organization Of Bodywork Therapies Of Asia.

OTHER BODYWORK APPROACHES: Recognized bodywork approaches and modalities, other than Asian bodywork approaches that are specifically exempt under ~~section~~Section 25 of the ~~massage licensing act~~ Massage Licensing Act, including ~~these practitioners~~ that do not involve intentional soft tissue manipulation, including but not limited to Alexander ~~technique~~Technique, Feldenkrais, ~~reike~~Reike and ~~therapeutic touch~~Therapeutic Touch, and practitioners of certain service marked bodywork techniquesapproaches that do involve intentional soft tissue manipulation, including but not limited to Rolfing, Trager ~~approach~~Approach Polarity Therapy, and orthobionomy if approved by their respective governing body based on a minimum level of training, demonstration of competency and adherence to ethical standards set by their governing body, and ~~practitioners of bodywork who restrict manipulation to soft tissue to the feet, hands and ears, and who do not have the client disrobe, such as reflexology~~Orthobionomy.

OWNER: Any person or legal entity who owns ten percent (10%) or greater interest in a bodywork approach business.

PATRON: Any person who receives one or more Asian bodywork approach services and/or other bodywork approach services under such circumstances that it is reasonably expected that he or she will pay money or give other consideration therefor.

PRACTITIONER MASSAGE OR BODYWORK THERAPY ASSOCIATION: A state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and meets the following requirements:

- (1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.
- (2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

SEXUAL OR GENITAL AREA: Including the genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female. (Ord. 2015-77, 10-6-2015)

Notes

4            ~~1. 225 ILCS 57/25.~~

### **3-29B-2: BODYWORK APPROACH BUSINESS LICENSE:**

A. It shall be unlawful for any person, entity or business to provide Asian bodywork approach services or other bodywork approach services, or for any bodywork approach business establishment to operate in the village without a valid and current bodywork approach establishment business license issued by the village pursuant to the terms of this chapter. A separate license shall be required for each bodywork business location regardless of whether multiple businesses are operated by the same person acting as a sole proprietor, corporation, limited liability company, partnership, joint venture, firm, association, or business. All



~~practitioners offering Asian bodywork approaches require a village Asian bodywork practitioner license. A person offering or practicing Asian bodywork approaches shall have an Asian bodywork approach practitioner license issued by the village as described in section 3-29B-3 of this chapter. All practitioners offering Asian bodywork approach services or other bodywork approach services require a valid and current massage therapist license, Asian bodywork approach practitioner's license, or other bodywork approach practitioner's license issued by the Illinois department of financial and professional regulation, or if exempt from licensure under Section 25 of the Massage Licensing Act, then an Asian bodywork approach practitioner's license issued by the Village pursuant to Section 3-29B-\_\_\_\_\_ of this Chapter. A person offering or practicing Asian bodywork approaches or other bodywork approaches shall have a valid and current massage therapist, Asian bodywork approach practitioner's, or other bodywork approach practitioner's license or business certificate issued by the Illinois department of financial and professional regulation, or if exempt from licensure under Section 25 of the Massage Licensing Act, then an Asian bodywork approach practitioner's license issued by the Village pursuant to Section 3-29B-\_\_\_\_\_ of this Chapter.~~

- B. It shall be unlawful for any massage business establishment licensed by the village pursuant to chapter 29A of this title, or individual massage therapist licensed and operating under the massage licensing act<sup>1</sup>, to employ, hire, sublease, contract or allow at any location where massage is performed, any practitioner of Asian bodywork approaches to perform or provide any Asian bodywork approaches, ~~or practitioner of other bodywork approaches to perform or provide any other bodywork approach services~~ unless that business also has a bodywork establishment business license ~~under issued pursuant to this chapter, and each practitioner of Asian bodywork approaches and/or other bodywork approaches procures a~~ ~~neither a massage therapist, Asian bodywork approach practitioner's, or other bodywork approach practitioners' license from the village, and each practitioner of other bodywork approaches employed~~ ~~issued by or under contract with the Illinois department of financial and professional regulation, or if exempt under section 25 of the massage Massage Licensing Act, a bodywork approach practitioner's license issued by the Village pursuant to Section 3-29A-\_\_\_\_\_ of this Chapter, or business~~ ~~meets the minimum qualifications therefor as set forth in section certificate issued by the Illinois department of financial and professional regulation, or if exempt under Section 25 of the Massage Licensing Act, a bodyworks approach practitioner's license issued by the Village pursuant to Section 3-29B-7\_\_\_ of this chapter.~~ (Ord. 2015-77, 10-6-2015)Chapter.

**3-29B-3: ASIAN BODYWORK APPROACH PRACTITIONER'S LICENSE REQUIRED:**

No person offering or providing Asian bodywork approaches ~~or other bodywork approaches of modalities~~ shall perform a massage or any Asian bodywork approach, ~~or other bodywork approaches or modalities,~~ without a state massage therapy license or a current valid Asian bodywork approach practitioner license ~~issued by the village.~~ (Ord. 2015-77, 10-6-2015), ~~or a current valid other bodyworks approach practitioner's license issued by the Illinois department of financial and professional regulation, or if exempt under Section 25 of the Massage Licensing Act, then a bodywork approach practitioner's license issued by the village.~~

**3-29B-4: EXEMPTIONS:**

The provisions of this chapter shall not apply to:

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<sup>1</sup> 225 ILCS 57/1, et seq.



- A. Hospitals, nursing homes, or any facility at which a healthcare worker duly licensed by the state of Illinois provides on an ongoing basis, professional health services to individuals, or persons holding an unrevoked certificate to practice the healing arts under the laws of the state of Illinois, or to those working under the direction of any such persons in any such businesses, including the offices of an occupational therapist licensed under the occupational therapy practice act ~~4~~<sup>1</sup>, a physical therapist licensed under the physical therapy act ~~2~~<sup>2</sup>, a physician or chiropractic physician licensed under the medical practice act ~~3~~<sup>3</sup>, a naprapath licensed under the naprapathic practice act ~~4~~<sup>4</sup>.
- B. Any barber, cosmetologist, ~~aesthetician~~<sup>aesthethician</sup> or nail technician lawfully carrying on their respective businesses to the extent authorized under a valid unrevoked license or certificate of registration issued by the state of Illinois; provided, however, this exemption is only intended to permit normal and customary barbering, cosmetology, ~~aesthetic~~<sup>esthetic</sup> and nail technology services which involve incidental physical contact, such as scalp rubs, facials, and hand manipulations which otherwise qualify as massage activities or bodywork approach services. This exemption is not intended, and does not permit, general massage activities as part of any barber, cosmetologist, ~~aesthetician~~<sup>aesthethician</sup> or nail technician business beyond that authorized by their state license or certification, nor does it permit Asian bodywork ~~approaches~~<sup>approach or other bodywork approach services</sup> beyond that authorized by his, her or its state license.
- C. Any athletic trainer registered in the state of Illinois who administers such athletic related massage or bodywork approach services in the normal course of training duties.
- D. No Asian bodywork approach services shall be performed off the bodywork approach establishment business premises, including at the patron's premises, including the patron's place of business or residence, unless performed by a state licensed massage therapist.
- E. Bona fide health/sport establishments which allow persons of all ages on the premises and which meet the following criteria:
1. The primary purpose of the establishment is health and fitness; massage and bodywork service is subsidiary;
  2. No more than twenty percent (20%) of the establishment revenue is derived from massage services and/or bodywork approach services; and

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<sup>1</sup> [225 ILCS 75/1 et seq.](#)

<sup>2</sup> [225 ILCS 90/1 et seq.](#)

<sup>3</sup> [225 ILCS 60/1, et seq.](#)

<sup>4</sup> [225 ILCS 63/1 et seq.](#)

3. Massage and/or bodywork approach facilities shall not occupy more than ten percent (10%) of the establishment's building.

F. Massage businesses licensed pursuant to chapter 29A of this title that do not perform or provide Asian bodywork approaches or other bodywork approaches by any person who is not a massage therapist. (Ord. 2015-77, 10-6-2015)

Notes

- 4 ~~1. 225 ILCS 75/1 et seq.~~
- 2 ~~2. 225 ILCS 90/1 et seq.~~
- 3 ~~3. 225 ILCS 60/1 et seq.~~
- 4 ~~4. 225 ILCS 63/1 et seq.~~

G. Physicians, podiatric physician, or chiropractic physician licensed under the Medical Practice Act.<sup>1</sup>

H. Naprapath licensed under the Illinois Naprapathic Act.<sup>2</sup>

I. Physical therapist licensed under the Medical practice Act.<sup>3</sup>

J. Occupational therapist licensed under the Illinois Occupational Therapy Act.<sup>4</sup>

**3-29B-5: APPLICATION FOR BODYWORK APPROACH BUSINESS LICENSE AND INITIAL INSPECTIONS:**

Every applicant for a license to maintain, operate, or conduct a bodywork approach business shall file an application, under oath, with the village of Bartlett upon a form provided by the village clerk and pay a nonrefundable annual license fee, in the amount set forth in section 3-1-1 of this title. Copies of the bodywork approach business license application shall be forwarded to the building ~~director~~and code enforcement division manager, the health inspector, and the community development director. Each such director or inspector, or his or her designee, shall, within thirty (30) days, inspect the premises proposed to be operated as a bodywork approach business and upon inspection, each inspector shall file a written report with the village clerk concerning compliance with the applicable regulations. A copy shall also be forwarded by the building ~~director~~and code enforcement division manager and to the Bartlett fire protection district or other applicable fire district having jurisdiction. The application, once accepted, shall also be referred to the police department for investigation. The police department will perform the required criminal record check, if any. Background investigations of the applicant shall require the submission of fingerprints. The cost of the criminal record check and cost of fingerprint submissions shall be borne by the applicant. Each application shall contain the following information for each applicant:

A. A definition of service to be provided.

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<sup>1</sup> 225 ILCS 60/1 et seq.

<sup>2</sup> 225 ILCS 63/1, et seq.

<sup>3</sup> 225 ILCS 60/1, et seq.

<sup>4</sup> 225 ILCS 75/1 et seq.



- B. The location, mailing address and all telephone numbers where the business is to be conducted.
- C. Federal employer identification number (FEIN) and state of Illinois business tax number (IBT).
- D. The name and residence address of each applicant (all provisions in this section which refer to applicant include an applicant which may be a person operating as a sole proprietorship, corporation, limited liability company, partnership, joint venture, or association).
  - 1. If applicant is a corporation, the name, primary residence address, driver's license number, social security number, and fingerprints of each officer, director and of each stockholder owning more than ten percent (10%) of the stock of the corporation or company (excluding corporations whose stock is traded), and the address of the corporation or company itself, if different from the address of the bodywork approach establishment. A certificate of good standing from the secretary of state of the state of its incorporation shall also be submitted.
  - 2. If the applicant is a limited liability company, the name, primary residence address, driver's license number, social security number, and fingerprints of each manager and of each member that owns greater than a ten percent (10%) membership interest in said company. The provisions of subsections E, F, G, H, I, J, K, L, and O of this section shall be completed for each such person. A certificate of good standing from the secretary of state of the state of its organization shall also be submitted.
  - 3. If applicant is a partnership, the name, primary residence address, driver's license number, social security number and fingerprints of each partner including limited partners, and the address of the partnership itself, if different from the address of the bodywork approach establishment. The provisions of subsections E, F, G, H, I, J, K, L, and O of this section shall be completed for each such person.
- E. The two (2) previous addresses immediately prior to the present address of the applicant.
- F. Proof that the applicant is at least eighteen (18) years of age.
- G. Individual applicant's height, weight, color of eyes, hair and sex.
- H. Copy of driver's license or state identification card.
- I. One portrait photograph of the applicant at least one inch by one and one-half inches (1" x 1 1/2") and unless the individual has a massage therapist, Asian bodywork approach practitioner or other bodywork approach license issued by the Illinois department of financial and professional regulation and furnishes a copy of such license with its application, a complete set of applicant's fingerprints shall be taken by the chief of police or his/her agent. If the applicant is a partnership, limited liability company, or corporation, fingerprints of any and all officers, shareholders, directors, partners, members, managers or agents of the entity (except for ~~massage therapists~~state licensed massage therapists, Asian bodywork approach practitioner or other bodywork approach practitioner licensed by the Illinois department of financial and professional regulation provided such states licenses are submitted with the application) along with the fee for each.
- J. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

- K. The bodywork approach business or similar business license history of the applicant; whether such person, if previously operating in this or another municipality, county or state, has had a business license revoked or suspended, the reason for the revocation or suspension, and the business activity or occupation subsequent to such action of suspension or revocation.
- L. All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted. Convictions shall mean by plea of guilty or nolo contendere, finding of guilty, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States:
1. That is a felony, or
  2. That is a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the profession including, without limitation, the following Illinois offenses, or if found guilty outside the state of Illinois, would constitute the same offense if committed within the state of Illinois:
    - a. An offense involving the use of force and violence upon the person of another that amounts to a felony.
    - b. An offense enumerated in any provision of article 11, entitled "sex offenses", of the Illinois criminal code, 720 Illinois Compiled Statutes 5/11-1 et seq., as amended from time to time.
    - c. A violation of the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/100 et seq., as amended from time to time.
    - d. A violation of the Illinois cannabis control act, 720 Illinois Compiled Statutes 550/1 et seq., as amended from time to time.
    - e. A felony offense enumerated in article 24, deadly weapons, of the Illinois criminal code, 720 Illinois Compiled Statutes 5/24-1 et seq., as amended from time to time, or any other offense that involves the use of weapons.
- M. The name and address of any other business owned or operated by any person whose name is required to be given in subsection D of this section.
- N. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- O. Authorization of the village, its 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 license, and to perform criminal background investigations as required by this chapter.
- P. A description of the proposed bodywork approach business, including the number of Asian bodywork approach practitioners, and [all other bodywork approach practitioners and](#) the name, primary residence addresses, social security numbers, and driver's license number of each Asian bodywork approach practitioner and [each](#) other bodywork practitioner that will be



employed by the business, and stating what other activities or business will be conducted at the same location, and the physical facilities to be used.

- Q. A statement of whether the bodywork approach business will be conducted by a manager. In such case, the manager's name, address, telephone number and age shall be provided along with a statement of any convictions as set forth under subsection L of this section.
- R. A current certificate of inspection of the premises from an applicable county ~~board~~department of health, if required.
- S. The license fee and other fees as provided in section 3-29B-11 of this chapter.
- T. In the event applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, applicant shall immediately notify the village clerk and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial or result in the suspension or revocation of an existing license.
- U. If a business intends to provide either ~~bodywork approaches or modalities other than~~ Asian bodywork approaches or modalities or other bodywork approach or modalities that are also exempt under section 25 of the massage licensing act ~~1-1~~, then the business applicant shall for each employee or independent contractor that is intended to perform such Asian bodywork approaches or other bodywork approaches or modalities furnish a copy of that individual's state issued massage therapist, Asian bodywork approach practitioner's, or other body work approach practitioner's license or other business certificate, or for services claimed to be exempt, a certification of such modality approved by AOBTA, NCBTMB, NCCAOM, or NCCA or other professional massage or bodywork therapy association as defined in the Massage Licensing Act<sup>2</sup> evidencing a minimum of fifty (50) hours of training in that other bodywork approach or modality.
- V. If upon investigation, the village determines that ~~the~~a practitioner of other bodywork approaches does not have a state license or business certificate to perform services issued by the Illinois department of financial and professional regulation, and licensure or certification may not be bona fide, or that the organization providing the licensure or certification may not be bona fide, the village may conduct additional investigation by requiring the employee or independent contractor that will be performing such other bodywork approach claimed to be exempt from the licensure under the Massage Licensing Act, to submit to fingerprinting. When fingerprinting is required, the applicant shall present himself or any owner or herself for fingerprints to be taken by the village of Bartlett police department. Applicant (or any owner) shall pay the fingerprint fee as provided in subsection 3-29B-11C of this chapter for each person required to submit fingerprints.
- W. Proof of commercial general liability insurance of not less than one million dollars (\$1,000,000.00) combined single limit and one million dollars (\$1,000,000.00) general aggregate coverage for said business covering the acts and omissions of its employees, and

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<sup>1</sup> [225 ILCS 57/25](#)

<sup>2</sup> [225 ILCS 57/25](#)



such insurance coverage from each of its independent contractors or confirmation they are covered by the business' insurance policy, or proof of such insurance coverage by the individual Asian bodywork approach practitioner or other bodywork practitioner. (Ord. 2015-77, 10-6-2015)

Notes

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~~1. 225 ILCS 57/25.~~

**3-29B-6: APPLICATION FOR VILLAGE ~~ASIAN~~ BODYWORK APPROACH PRACTITIONER LICENSE AND MINIMUM QUALIFICATIONS:**

Every person ~~seeking~~who intends Asian bodywork approach services or other bodywork approach services shall submit either a massage therapist license, or an Asian bodywork approach practitioner's license or another bodywork approach practitioner's license issued by the Illinois department of financial and professional regulation; otherwise if claiming exemption therefrom under Section 25 of the Massage Licensing Act, shall make application for a village ~~Asian~~-bodywork approach practitioner license ~~shall make an application~~ to the village clerk. Any person seeking ~~an Asian~~ bodywork approach practitioner license to perform Asian bodywork approach services or other bodywork approach services defined by this chapter shall provide, in conjunction with his ~~or~~, her or its license application or upon request by the village clerk, information establishing the qualification for ~~an Asian~~ bodywork approach practitioner license. The village clerk shall have the right to confirm any of the information asked for or provided in the applications. Applications shall include the following:

- A. The name (including nicknames or aliases) and address, telephone number, social security number, driver's license number, and age of the applicant.
- B. The location where the ~~Asian~~-bodywork approach will be performed.
- C. The ~~Asian~~ bodywork approach license fee as provided in section 3-1-1 of this title.
- D. Business, occupation, or employment of each ~~Asian~~ bodywork approach practitioner employee and independent contractors of the applicant for five (5) years immediately preceding the date of application.
- E. Fingerprints for running a background check by the Bartlett police department, and an investigation authorization on forms furnished by each applicant authorizing the Bartlett police department to conduct a criminal background check and receive reports from the Illinois state police, the FBI and other law enforcement agencies.
- F. Two (2) passport size photographs (1 inch x 1.5 inches) of the applicant and owners (head and shoulders area, face forward) shall be provided by the applicant to be used in the investigation of the applicant, the preparation of a photo identification license card, and the identification of the license holder following issuance. Provided, in the case of a renewal application, the village clerk may waive the requirement for photographs if the applicant's photographs are on file and new photo identification permit cards are not to be issued.
- G. Certification from the American Organization For Bodywork Therapies Of Asia (AOBTA) or other professional massage or bodywork association that the applicant is a professional member and certifying or approving the applicant as a practitioner of Asian bodyworks, or if



the applicant is approved by another Asian bodywork organization based on a minimum level of training, demonstration of competency, and adherence to ethical standards set by their governing body meeting the following requirements:

1. The applicant has a current certification with the NCBTMB; or
2. The applicant has been certified or approved by another ~~Asian~~ bodywork organization that has a curriculum in ~~Asian~~ bodywork based on actual classroom or formal education, and without membership or certification by such organization based on apprentice hours; or
3. The applicant shall have graduated from an Asian bodyworks school or oriental school of medicine with a minimum ~~threeone~~ hundred (~~300~~100) hour curriculum that includes ~~Asian bodywork, Chinese medical theory,~~ anatomy and physiology, hygiene, sanitation, ethics, technical theory, application of techniques, and clinical practice, provided such school is accredited by the AOBTA, NCBTMB or the NCCAOM.

H. The application shall include:

1. The name, address, telephone number and website address of the Asian bodywork approach school;
2. The name of all faculty members of the ~~Asian~~ bodywork school who provided education or training to the applicant including those teachers' ~~Asian~~ bodywork certifications, experience and educational background;
3. The applicant shall provide a copy of his or her school transcript which shall include identification of all courses taken, the number of hours for those courses, a passing grade for all those courses, a copy of their tuition bill, and proof of payment of tuition.
4. A copy of the ethical standards of the school or ~~Asian~~ bodywork organization.
5. Such other information as may be reasonably required by the village to establish the accuracy and legitimacy of the other information provided pursuant to this section.
6. The burden of establishing the minimum qualifications shall be on the applicant.

I. No certification or approval from ~~an Asiana~~ bodywork approach school shall be accepted by the village clerk if all or a portion of the credits used for the certification of the applicant were earned in a country other than the United States Of America.

J. No ~~Asian~~ bodywork approach practitioner license shall be issued by the village clerk unless the village clerk has received written verification from the ~~Asian~~ bodywork approach school that the applicant has successfully completed the requirements of the ~~Asian~~ bodywork approach school's program.

K. If upon investigation, the village determines that an applicant's licensure or certification may not be bona fide, or that the organization providing the licensure or certification may not be bona fide, or that the ~~Asian~~ bodywork organization or school has not verified the accuracy of the documents required by this section to be true and correct, the village clerk may deny the ~~Asian~~ bodywork approach practitioner license. The village clerk shall notify the applicant of the bodywork approach business licensee and any applicant for a village ~~Asian~~ bodywork



approach practitioner license of the reasons for the denial in writing at the address of the applicant listed on the application. The applicant shall have the right to establish the bona fide nature of the licensure or certification in writing.

- L. At the time of and after the village issues ~~an Asian~~ bodyworks approach practitioner license under this chapter, it shall be the obligation of the licensee to provide the village with all of the information set forth in this section for each new or different ~~Asian~~ bodywork approach practitioner prior to the time that person commences work at the licensed premises.
- M. Payment of the applicable fees as set forth in section 3-29B-11 of this chapter. (~~Ord. 2015-77, 10-6-2015~~)

**~~3-29B-7: MINIMUM QUALIFICATIONS FOR OTHER BODYWORK PRACTITIONERS: REPEALED.~~**

- ~~A. If a business intends to provide either bodywork approaches or modalities other than Asian bodywork approaches that are also exempt under section 25 of the massage licensing act 1, then the business applicant shall for each employee or independent contractor that is intended to perform such other bodywork approaches or modalities shall furnish a certification of such modality approved by AOBTA, NCBTMB, NCCAOM, or NCCA evidencing a minimum of fifty (50) hours of training in that other bodywork approach or modality.~~
- ~~B. Documents establishing that any person proposing to practice under any other bodywork approach satisfies the minimum qualifications for bodywork approach practitioner license including, but not limited to:
  - ~~1. Documents showing the name, address and telephone number of the organization, association or school issuing the certificates or membership to the persons employed by the business as well as a copy of its curriculum; and~~
  - ~~2. Documents from the organization, association or school issuing the certificates establishing the minimum level of training, testing and ethical standards set by the governing body of the organization or association; and~~
  - ~~3. The name and address of the governing body of the organization, association or school; and~~
  - ~~4. Proof that the person has completed the level of training, demonstrated competency, and adherence to ethical standards by records of the governing association establishing the practitioner's attendance at the program, including the date the practitioner began training; the date of completion of the practitioner's training program; proof of payment of the practitioner's tuition, and the identity including the name, business address, website address, and telephone number(s) for the faculty, testers or other persons involved in the training, testing and establishment of ethical standards of their school or governing body and the name and address of the governing body.~~
  - ~~5. Any licenses or certificates for each practitioner; and~~
  - ~~6. Such other information as may be reasonably required by the village to establish the accuracy and legitimacy of the other information provided pursuant to this section.~~~~



~~C. If upon investigation, the village determines that the practitioner of other bodywork approaches licensure or certification may not be bona fide, or that the organization providing the licensure or certification may not be bona fide, the village may conduct additional investigation by requiring the employee or independent contractor that will be performing other bodywork approach to submit to fingerprinting. When fingerprinting is required, the applicant shall present himself or any owner or herself for fingerprints to be taken by the village of Bartlett police department. Applicant (or any owner) shall pay the fingerprint fee as provided in subsection 3-29B-11C of this chapter for each person required to submit fingerprints.~~

~~D. In the event the practitioner of other bodywork approaches does not meet the minimum criteria for the bodywork approach, the business shall not be authorized to offer that bodywork approach or modality service, or advertise that it will provide that service unless another employee or independent contractor under contract to perform that other bodywork approach meets the minimum requirements therefor set forth in this section. (Ord. 2015-77, 10-6-2015)~~

~~Notes~~

~~4 1. 225 ILCS 57/25.~~

**3-29B-8: APPLICATION PROCESSING:**

- A. An application shall not be considered proper or filed until all information and material required of the applicant has been submitted to the village clerk.
- B. Upon receipt of a proper application, the village clerk shall investigate the information contained in the application and shall determine whether the applicant, owners and the premises designated, ~~and each Asian bodywork approach practitioner, whether an owner, employee or independent contractor,~~ are in compliance with applicable state and local laws.
- C. The investigation, including inspections ~~and background checks, if applicable,~~ shall be completed within ~~forty five (45) thirty (30)~~ days after receipt of a proper and complete application. Provided, the village clerk may extend this investigation period by an additional period upon a finding that such additional period is needed to properly complete the investigation or where the village clerk's workload associated with the number of applications submitted under this chapter makes the processing of the application impractical. Provided, whenever such an extension period is invoked, written notice shall be provided to the applicant along with the specific reasons for such extension.
- D. If, within ten (10) days, following completion of the investigation, the village clerk determines that the applicant and/or premises are in compliance with the applicable laws of the village, the village clerk shall issue the bodywork approach business license and/or ~~Asian, if applicable,~~ a bodywork approach ~~practitioner~~practitioner's license or licenses.
- E. If, within ten (10) days, following completion of the investigation, the village clerk determines that the applicant, owners, Asian bodywork approach practitioner, ~~other bodywork approach practitioner,~~ and/or premises are not in compliance with the applicable laws ~~of this state and~~ of the village, the village clerk shall notify the applicant or applicants in writing that its, his, or her license has been denied, setting forth the reasons therefor, and advising the applicant of his or her right to a hearing pursuant to section 3-29B-24 of this chapter. Such denial shall be final and effective on the eleventh day following mailing of the notice by the village clerk. The fee paid by the business applicant pursuant to section 3-29B-11 of this chapter, shall be returned, less fifty dollars (\$50.00) which will be retained as a processing fee. Any fees paid



by the practitioner pursuant to section 3-29B-11 of this chapter shall be returned, less twenty five dollars (\$25.00) which shall be retained as a processing fee. (Ord. 2015-77, 10-6-2015)

### **3-29B-9: POSTING OF LICENSE, PHOTO IDENTIFICATION CARD:**

- A. The village bodywork approach business license issued shall be available for public inspection and review upon request, if said licenses are not posted and available for immediate inspection in the reception area for patrons, if any, or in the bodywork approach work area.
- B. Every massage therapist working at a massage business establishment that also provides Asian bodywork approach services or other bodywork approach services shall possess his or her state license and a government issued photo identification card while on the licensed premises and produce such state license, or village issued bodywork practitioner's license, if applicable, and identification card upon request of any representative of the village of Bartlett.
- C. Every Asian bodywork approach practitioner and every other bodywork approach practitioner shall possess his or her village-state issued massage therapist, or Asian bodywork approach practitioner's, or state issued Asian bodywork approach practitioner license and/or business certificate issued by the Illinois department of financial and professional regulation; otherwise a village issued bodywork approach practitioner's license, and in either case, a government issued photo identification card while on the licensed premises, and produce such villagestate or Village license and identification card upon request by any representative of the village of Bartlett.
- D. Every practitioner of other bodywork approaches shall possess a massage therapists or other bodywork approach practitioner license issued by the Illinois department of professional regulation; otherwise a Village issued bodywork approach practitioner's license, and in either case a government photo identification card while on the premises, and produce said license and identification card upon request by any representative of the village of Bartlett. (Ord. 2015-77, 10-6-2015)

### **3-29B-10: LIMITATION ON ISSUANCE AND RENEWAL OF LICENSE:**

No bodywork approach business license, or-Asian bodywork approach practitioner license shall be issued or renewed:

- A. To an applicant ~~or,~~ owner or agent who, or whose employee, or independent contractor, has been convicted of the following offenses:
  - 1. Any offense involving sexual misconduct with children or other sex offenses as defined in article eleven (11) of the criminal code of 1961, as amended.
  - 2. Any felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past ten (10) years; or
  - 3. Any felony unrelated to conduct or involvement in such business or activity or related or similar business or activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including rape or prostitution, within the past five (5) years; or



4. Any misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past five (5) years.
- B. To an applicant, owner or agent or straw person for such applicant or owner whose license issued under this chapter, massage business license issued pursuant to chapter 29A of this title, or business license issued pursuant to chapter 1 of this title prior to the effective date hereof has been revoked for cause.
  - C. To an applicant ~~or~~, owner or agent who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
  - D. To an applicant ~~or~~, owner or agent under the age of eighteen (18) years of age.
  - E. To an applicant ~~or~~, owner or agent where grounds for revocation exist as provided under section 3-29B-23 of this chapter.
  - F. In addition to the provisions stated above, no bodywork approach business license shall be issued or renewed as follows:
    1. To a corporation, unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "business corporation act of 1983", as amended, to transact business in Illinois and is in good standing, or to a limited liability company, unless it is organized in Illinois and is in good standing.
    2. To any applicant or owner whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee. (Ord. 2015-77, 10-6-2015)
    3. To any applicant, owner or agent who fails to include with his, her or its annual renewal application a statement that the person filling out the renewal application has received and read this amended Chapter 29B Bodywork Establishment Licensing Requirements, and has submitted then current and updated list or register of all of its massage therapists, Asian bodyworks practitioners, and other bodywork practitioners employed by the business as an employee or independent contractor with the name and home address of each such individual, together with a copy of the state issued massage therapist, Asian bodywork approach practitioner, or other bodywork approach practitioner license or business certificate issued by the Illinois department of financial and professional regulation, bodywork approach practitioner's license or licenses issued by the Village, for each of such employee and independent contractor listed on said roster.

**3-29B-11: FEES:**

- A. The fee for a bodywork approach business license shall be as provided in section 3-1-1 of this title and such license shall be valid for one year from May 1 to April 30 of each year. ~~The fee for 2015 shall be prorated and credit shall be given for any business license fee paid for the period May 1, 2015 through April 30, 2016.~~
- B. The fee for ~~an Asian~~ bodywork approach practitioner license for an Asian bodywork practitioner or other bodywork practitioner that does not hold a state issued license or business certificate therefor, shall be as provided in section 3-1-1 of this title and such license



shall be valid for one year from May 1 to April 30 of each year, ~~but shall be prorated for the year 2015.~~

- C. A fingerprint fee of equal to the current rate being charged by the Illinois state police for processing fingerprints shall be paid for each person required to submit fingerprints under this chapter. (Ord. 2015-77, 10-6-2015)

**3-29B-12: EXPIRATION OF BODYWORK APPROACH BUSINESS LICENSE, PRACTITIONER LICENSE, AND RENEWAL:**

- A. Each bodywork approach business license or Asian bodywork approach ~~practitioner's~~practitioner's license shall expire each year on April 30 and may be renewed only by making application as provided in section 3-29B-5 of this chapter. Provided, in lieu of full submittal, an applicant or owner may, on forms provided by the village clerk, certify that the information previously provided remains true and valid. ~~This, except the applicant for renewal shall acknowledge with each annual renewal that the person executing the application has re-read title 10, Chapters 29A and 29B of the Bartlett Municipal Code as amended, and shall nevertheless include with its renewal application an updated list or register of all of its then current employees and independent contractors as required under section 3-29B-10:F.3 of this chapter.~~ The renewal application shall be processed as provided in section 3-29B-5 of this chapter. Application for renewal should be made at least thirty (30) days before the expiration date, the expiration of the ~~Asian~~ bodywork approach ~~business~~ license will not be affected. Renewal applications for bodywork approach business licenses, and ~~Asian for Village issued~~ bodywork ~~practitioner's~~practitioner's licenses ~~(if applicable)~~ shall be obtained from the village clerk's office.
- B. When the village clerk denies renewal of a bodywork approach business license ~~and Asian bodywork approach practitioner's license~~ as provided for in this chapter, the applicant or owner shall not be considered for a license or permit for one year from the date of denial. Provided, if subsequent to denial the village clerk finds that the basis for denial of the renewal license has been corrected or abated, the applicant or owner may be granted a license.
- ~~C. Upon expiration of an Asian bodywork approach practitioner license, the practitioner shall renew his/her application for a license on a form issued by the village clerk's office. (Ord. 2015-77, 10-6-2015)~~

**3-29B-13: BODYWORK APPROACH BUSINESS FACILITIES AND OPERATING REQUIREMENTS:**

No license or renewal thereof, shall be issued to conduct a bodywork approach business unless an inspection, conducted not less than once each year, discloses that the business complies with each of the following minimum requirements:

- A. Hot and cold running water shall be provided.
- B. Adequate private dressing and toilet facilities shall be provided for patrons.
- C. All walls, ceilings, floors, steam rooms, and other physical facilities in a bodywork approach business shall be kept in good repair, and maintained in a clean and sanitary condition.



- D. All bodywork approach businesses shall be provided with clean, laundered sheets and towels which shall be laundered after each use by an individual patron and stored in a sanitary manner. All towels and linens furnished for use of one patron shall not be refurnished for use of another patron until laundered.
- E. Every portion of the bodywork approach business, including appliances and apparatus, shall be kept clean and operated in a sanitary manner.
- F. Prices for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- G. All employees, including Asian bodywork approach practitioners or other bodywork approach practitioners, shall be clean and wear clean, nontransparent outer garments.
- H. The sexual or genital areas of patrons must be covered with nontransparent towels, cloths, or undergarments when in the presence of an employee, Asian bodywork approach practitioner, or other bodywork approach practitioner.
- I. All walls, ceilings, floors, pools, showers, baths, and steam rooms and any other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the bodywork approach business establishment is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
- J. Oils, creams, lotions, and other preparations used in administering bodywork approach services shall be kept in clean, closed containers or cabinets.
- K. Each Asian bodywork approach practitioner or other bodywork approach practitioner shall wash his or her hands in hot running water using a proper soap or disinfectant before administering bodywork approach services to any patron.
- L. No Asian bodywork approach practitioner or other bodywork approach practitioner, employee, or licensee shall perform, offer, or agree to perform any act which shall require the touching of a patron's sexual or genital area.
- M. Any reception or waiting area shall be open to the public and visible from outside of the immediate entrance, e.g., storefront windows and any entrance door shall be transparent and unobstructed. Any exterior windows or doors with a view to the waiting area or reception area must be free of any posting or material that would obstruct the view of the waiting area or reception area from the outside of the establishment, and the front or other main entrance to the business must remain unlocked and open to the public during all hours of operation, except for a lunch or dinner break, in which all patrons and employees leave the business premises and a sign stating that the premises are temporarily closed for such a break is posted on the front or other main public entrance to the business.
- N. No bodywork approach business granted a license under the provisions of this chapter shall place, publish, post on the internet or its website, or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading or in order to induce any person to purchase or utilize any bodywork approach services.



- O. No bodywork approach business granted a license under the provisions of this chapter shall depict, place, publish, post on the internet or on its website, distribute, or cause to be depicted, placed, published, or distributed any advertising matter that suggests to prospective patrons that any services are available other than those services permitted by this chapter, or which would suggest that employees, Asian bodywork approach practitioners or other bodywork approach practitioners are dressed in any manner other than that permitted by this chapter.
- P. No advertising will suggest or describe the physical characteristics of employees, Asian bodywork approach practitioners, or other bodywork approach practitioners, or advertise or suggest in any advertisement that any person will perform any sexual services or other services inconsistent with the bodyworks approach business establishment license.
- Q. No person shall be denied bodywork approach services or access to the bodywork approach business because of gender. (Ord. 2015-77, 10-6-2015)

**3-29B-14: PERSONS UNDER AGE EIGHTEEN PROHIBITED ON PREMISES:**

It shall be unlawful to permit any person under the age of eighteen (18) years to be offered or receive Asian bodywork approaches at any bodywork approach business establishment unless accompanied by, or with written consent of, a parent or legal guardian. (Ord. 2015-77, 10-6-2015)

**3-29B-15: ALCOHOLIC BEVERAGES PROHIBITED:**

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on any premises used in any way for or by a bodywork approach business, patron or bodywork approach practitioner. (Ord. 2015-77, 10-6-2015)

**3-29B-16: HOURS:**

No portion of any business premises used in any way for or by a bodywork approach business shall be kept open for any purpose between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. (Ord. 2015-77, 10-6-2015)

**3-29B-17: PROHIBITED ACTS AND CONDITIONS:**

- A. ~~No~~No holder of a bodywork approach business license issued pursuant to this chapter, nor shall any employee, independent contractor or operator of a bodywork approach business ~~or holder of an Asian bodywork approach practitioner license shall~~ perform, offer or agree to perform any act which would require the touching of a patron's sexual or genital area.
- B. The sexual or genital areas of patrons shall be covered by towels, clothing, cloths or undergarments at all times when in the presence of an employee, Asian bodywork approach practitioner or other bodywork practitioner.
- C. It shall be unlawful for any person, knowingly, in a bodywork approach business establishment to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any other person.
- D. No employee, independent contractor of the licensee, or operator shall administer Asian bodywork approach services or other bodywork approach services to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption, unless a physician duly licensed by the state of Illinois certifies in writing that such persons may safely receive Asian bodywork approach or other bodywork approach services prescribing the conditions thereof.



- E. Bodywork approach business employees, independent contractors and agents, and Asian bodywork approach practitioners must wear clean, nontransparent outer garments fully covering the sexual or genital area.
- F. Bodywork approach businesses are prohibited from advertising in ways which would suggest that employees are dressed in a way other than that allowed in this section, or that any massage or services other than those defined by this chapter are available.
- G. Any bodywork approach business ~~license and an Asian bodywork approach practitioner~~ license issued under this chapter shall be displayed in a conspicuous location within the customer area of a licensed business.
- H. At all times during the hours of operation of a bodywork approach business there shall be present a manager or other employee of the license holder who shall be not less than eighteen (18) years of age.
- I. No bodywork approach business license holder shall employ as a massage therapist, Asian bodywork approach practitioner, or other bodywork approach practitioner, or any person to perform Asian bodywork approach services or other bodywork approach services unless said person has obtained and has in effect a license issued by the state of Illinois, ~~or an Asian bodywork approach practitioner unless said person has obtained~~ department of financial and has in effect an Asian bodywork practitioner professional regulation authorizing that employee or independent contractor to perform any such Asian bodywork approach or other bodywork approach services, or if exempt under Section 25 of the Massage Licensing Act, then a bodywork practitioner's license or licenses issued by the ~~village of Bartlett~~Village.
- J. It shall be unlawful for any business which holds a license to operate a bodywork approach business within the village to fail to comply with the conditions and regulations set forth in this chapter or to suffer or permit noncompliance with such conditions and regulations of this chapter on or within the licensed premises.
- K. It shall be unlawful for any business licensed as provided in this chapter to operate under any name or conduct business under any designation not specified in such license.
- L. The doors to the individual rooms in which bodywork approach services take place shall not be equipped with any locking device and shall not be blocked or obstructed from either side.
- M. The doors which customers use for egress and ingress to any bodywork approach business shall not be locked during regular business hours. For purposes of this section regular business hours shall be considered anytime in which bodywork approach services are being offered on a licensed premises.
- N. No person providing bodywork approach services shall escort the person receiving the said services from the customer or patron's parked vehicle into the premises where the bodywork approach services are to be performed.
- O. It shall be unlawful for any business licensed as provided in this chapter to advertise or use any other business name to advertise any service which is not authorized by this chapter or state statute in any manner. Internet advertisements containing unlawful advertising and listing the address of a licensed business shall be presumed to have been originated by the



license holder at that address who shall bear the burden by clear and convincing evidence to establish that the advertising was not placed by the licensed business or its agent.

- P. All persons working for a licensed business ~~or applying for an Asian bodywork approach practitioner's license~~ shall have an Illinois driver's license or Illinois secretary of state identification card ~~or driver's license or state issued identification card issued by another state~~ present with them while working on a licensed premises.
- Q. Any business holding a bodywork approach business license shall be liable for the acts of its employees and independent contractors performing Asian bodywork approach services and/or other bodywork approach services on the licensed premises without scienter of the employee's or independent contractor's acts. All persons offering or providing Asian bodywork approach services or other bodywork approach services in any licensed bodywork approach business shall be presumed to be employees of that business and not independent contractors, or sublessees, unless overcome by clear and convincing evidence. (Ord. 2015-77, 10-6-2015)
- R. It shall be unlawful for any person to sleep overnight, reside in, or occupy the licensed premises issued a bodyworks establishment license, and/or providing massage therapy, Asian bodywork approach or other bodywork approach services outside of the posted hours of operation of the bodywork approach business, or if not posted, between the hours of 10:00 p.m. and 8:00 a.m.

### **3-29B-18: PREMISES RESTRICTIONS:**

- A. The bodywork approach business premises shall be in compliance with applicable codes and ordinances of the village, including, but not limited to, zoning, building and life safety codes and all state laws and county health codes and regulations.
- B. When any license shall have been revoked for cause, no license shall be granted to any person or entity for a period of three (3) years thereafter for any massage establishment or bodywork approach business or the conduct of ~~an~~providing massage, Asian bodywork approach or other bodywork approach ~~or modality~~services in the licensed premises described in the revoked license. (Ord. 2015-77, 10-6-2015)
- C. The Village Clerk shall notify the owner/landlord of any underlying property with respect to the revocation of any bodywork approach business license within five (5) business days of the entry of an order of revocation.
- D. Every operator of a bodywork approach business shall post in a conspicuous location of the business a notice stating that human trafficking is prohibited and providing a help line phone number for victims of human trafficking.

### **3-29B-19: PERIODIC INSPECTIONS OF BODYWORK APPROACH BUSINESSES AND PREMISES:**

The village administrator, or his/her authorized designee, shall from time to time, and at least once a year, make an inspection of each bodywork approach business granted a license under the provisions of this chapter for the purposes of determining that the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable



manner. It shall be unlawful for any license holder to fail to allow such inspection officer access to the premises or to hinder such officer in any manner. (Ord. 2015-77, 10-6-2015)

### **3-29B-20: TRANSFER, CHANGES OF OWNERSHIP OR MANAGEMENT:**

- A. Any bodywork approach business license issued pursuant to this chapter shall be applicable only to the specific bodywork approach business licensee, ~~practitioner license~~ and location designated, and may not be sold, transferred, or otherwise assigned. Provided, where the licensee remains the same, but a request is made to designate and substitute a different location, the village clerk may approve such new location upon submission of proof that such location is in compliance with this chapter. A fee of fifty dollars (\$50.00) shall be required for processing such location changes.
- B. Any permit issued pursuant to this code shall be applicable only for the specific business designated, and may not be sold, transferred or otherwise assigned, except where ownership of the business remains identical.
- C. A transfer in the ownership or control of a bodywork approach business shall constitute change in the licensee and the existing license shall be deemed surrendered, extinguished and void. A new application and license shall be filed and processed as provided in section 3-29B-5 of this chapter prior to such transfer taking effect. Any transfer in the ownership of a bodywork approach business in violation of this chapter shall constitute operation of such business without a license.

~~D. No bodywork approach business, or person issued an Asian bodywork approach practitioner license under this chapter~~Any proposed changes in ownership, management and/or who the sole proprietor, general partners in a partnership, joint venturers in a joint venture, member(s) or manager(s) holding ten percent (10%) or great membership interest in of a limited liability company, officer(s), director(s), and shareholder(s) holding directly or beneficially more than ten percent (10%) of the stock in a corporation or ownership interest will be in a general partnership, limited partnership, joint venture, limited liability company (LLC) and/or corporation licensed under this chapter, shall be reported in writing to the village clerk not less than thirty (30) days prior to the proposed change. All new personnel, including every sole proprietor; general partner; joint venturer; member holding ten percent (10%) or greater membership interest and manager of an LLC; officer, director and shareholder of a corporation who owns ten percent (10%) or more of the common stock of a corporation shall meet all the standards of this chapter and must otherwise qualify to hold a bodywork approach business license under this chapter just as if such person was applying for a bodywork approach business license individually. All such changes in personnel shall be subject to review and approval by the Village Administrator.

1. When a license has been issued to a partnership or joint venture and a change of ownership occurs resulting in a change in the general partnership interest or joint venture interest of ten percent (10%) or more in said partnership or joint venture, such license shall terminate and the partnership or joint venture shall surrender its existing license and reapply for a new license.
2. When a license has been issued to an LLC and a change takes place in the manager(s) and/or members who own more ten percent (10%) or more of the membership interest in said LLC, such license shall terminate and the LLC shall surrender its existing license and reapply for a new license.



3. When a license has been issued to a corporation and a change takes place in the officers, directors and/or shareholders who own ten percent (10%) or more of the stock of the corporation, resulting in the holding of office, director's position, or ownership interest, such license shall terminate and the corporation shall surrender its existing license and reapply for a new license. This section shall not be applicable to corporations whose stock is publicly traded on recognized national stock exchanges, provided the corporation continues to meet, all of the standards of this chapter.

~~D.E.~~ No bodywork approach business shall use the name or telephone number of a prior bodywork approach business after the transfer of ownership or control of a bodywork approach business or any name or telephone number which is different than those in the application for the bodywork approach business license issued by the village.

~~E.F.~~ Notice shall be provided prior to anythe change of the designated manager conducting business for the bodywork approach business license, if any. The new manager, if any, shall be qualified to operate the bodywork approach business as provided in section 3-29B-5 of this chapter. The licensee shall, not less than ten (10) business days before such change is to take effect, give the village clerk written notice of such change. The notice shall include any information concerning the new manager ~~which is required in section 3-29B-5 of this chapter. (Ord. 2015-77, 10-6-2015), if any.~~

### **3-29B-21: JOINT AND SEVERAL LIABILITY:**

Any act or failure to act of an employee, a person performing massage at or on behalf of a massage establishment or bodywork approach business as an independent contractor or otherwise, or an agent of the licensee with respect to the licensed business shall be deemed to be the act of the licensee. The licensee and individual committing a violation are jointly and severally liable for any fines or penalties assessed pursuant to this chapter. (Ord. 2015-77, 10-6-2015)

### **3-29B-22: NOTICE OF REVOCATION, SUSPENSION OR REFUSAL OF A LICENSE OR CERTIFICATE:**

No bodywork approach business license ~~or Asian bodywork approach practitioner's license~~ shall be revoked, suspended, or refused until the applicant, ~~license holder or Asian bodywork approach practitioner license holder~~ has received written notice from the village clerk at the address provided in the application on file with the village. The notice shall set forth the allegations of why the license should be revoked, suspended, or refused. Said written notice shall be served upon the bodywork approach business license holder ~~or Asian bodywork approach practitioner's license holder, as the case may be,~~ by delivering the same personally or by leaving such notice at the place of business or residence of the license holder representative or ~~Asian bodywork approach practitioner license holder manager~~ manager, if any, identified in the applicable application. The license holder shall notify the village within forty eight (48) hours of any change in the name or address of its representative, if any. If the applicable licensee cannot be found, and the service of such notice cannot be otherwise made in the manner therein provided, a copy of such notice shall be sent by certified mail, postage prepaid, and by regular mail, postage prepaid, addressed to the bodywork approach business license holder or Asian bodywork approach practitioner license holder at the licensee's place of business or residence on file with the village. The revocation or suspension of a bodywork approach business license, and/or Asian bodywork approach practitioner license shall be deemed effective three (3) business days after personal service or after the mailing of the written notice as provided herein. (Ord. 2015-77, 10-6-2015)



### 3-29B-23: REVOCATION OR SUSPENSION OF A LICENSE:

The license of a bodywork approach business ~~and/or Asian bodywork approach practitioner~~ may be revoked or suspended, in addition to the fines provided for in section 3-29B-26 of this chapter, upon one or more of the following grounds:

- A. The bodywork approach business license holder or ~~Asian person filling out and submitting the underlying application for the~~ bodywork approach ~~practitioner/business~~ license holder has committed an act(s) of fraud or deceit in the application for license, or renewal thereof, submitted to the village clerk.
- B. The bodywork approach business license holder or ~~Asian any of its employees or independent contractors, or~~ bodywork approach ~~practitioner license holder/practitioners,~~ ~~is or are~~ engaged in the practice of massage, ~~Asian bodyworks approach, or other bodyworks approach~~ without a state massage therapy ~~license or applicable state license or business certificate therefor, or are operating~~ under a false or assumed name, or is impersonating a state licensed massage therapist or another Asian bodywork approach practitioner ~~or other bodyworks approach~~ of a like or different name.
- C. The bodywork approach business ~~license holder or Asian bodywork approach practitioner~~ license holder has committed an act of fraudulent, false, misleading or deceptive advertising, or prescribing medicines, drugs, or practices any other licensed profession without legal authority therefor.
- D. The bodywork approach business license holder or ~~Asian bodywork approach practitioner license holder~~~~any of its employees or independent contractors~~ has committed an act(s) of prostitution, sexual offense, or trafficking in controlled substances after the date of issuance of a bodywork approach business license or Asian bodywork approach practitioner license.
- E. The bodywork approach business license holder or Asian bodywork approach practitioner ~~license holder or other bodyworks approach practitioner~~ is found to be in violation of any section of this chapter.
- F. The bodywork approach business license holder or Asian bodywork approach practitioner, ~~or other bodywork approach practitioner, or other employee or agent of the~~ license holder, permits ~~or engages in~~ an act or acts of prostitution or solicitation for an act or acts of prostitution to be performed within the premises or elsewhere or permits any procedure during the performance of services within or off the premises that are performed for the purpose of sexual arousal or gratification of any patron, or should reasonably be expected to cause such result, or permits the use of trafficking of controlled substances or cannabis on the premises.
- G. The bodywork approach business license holder ~~or,~~ Asian bodywork approach practitioner ~~license holder, other bodywork approach practitioner, or any employee or independent contractor of the bodywork approach business~~ performs an act of prostitution within the premises or off the premises or solicits an act of prostitution on or off the premises or performs services within or without the premises in such a manner for the purpose of sexual arousal or gratification of a patron, or should reasonably be expected to cause such result, or the licensee uses or is trafficking in controlled substances or cannabis.
- H. The bodywork approach business license holder ~~or,~~ Asian bodywork approach practitioner ~~license holder, or other bodyworks approach practitioner, or any employee or independent~~



contractor of the bodywork approach business has violated or is not in compliance with this chapter and the license has been suspended within the preceding twenty four (24) months.

- I. A bodywork approach business license holder ~~or, Asian bodywork approach practitioner license holder, , or other bodyworks approach practitioner, or any employee or independent contractor of the bodywork approach business~~ who knowingly conducted massage activities or provided Asian bodywork approach services or bodywork approach services in the village during a period of time when the license holder's license was suspended.
- J. Within a twenty four (24) month period, a person or persons committed an offense as listed in subsection 3-29B-5L of this chapter, which substantially occurred in or on a licensed premises, and for which a conviction has been obtained, and the person or persons were employees or independent contractors under contract of the bodywork approach business license holder at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- K. A bodywork approach business ~~license holder or Asian bodywork approach practitioner~~ license holder is delinquent in payment to the village for ad valorem taxes or other taxes or fees related to the bodywork approach business. (Ord. 2015-77, 10-6-2015)

### **3-29B-24: HEARING:**

- A. Any applicant, owner, bodywork approach business license holder ~~or Asian bodywork approach practitioner~~ license applicant or holder who receives a notice of denial, revocation or suspension may file a request for hearing with the village ~~administrator~~ clerk as provided herein. Such request shall be filed with the village administrator in writing no later than ten (10) business days following ~~receipt~~ personal delivery or mailing of the notice, and shall include a response to the village clerk's notice. Such response shall include a brief statement addressing the substantive deficiencies and/or violations cited in the village clerk's notice and shall set forth the basis for why the license should not be denied, revoked or suspended. If a request for hearing is filed of an order of the village clerk denying, or the Village Administrator suspending or revoking a license, such denial, suspension or revocation shall be stayed pending final order of the village administrator as provided in this section. If a request for hearing is not filed, the village administrator may review the allegations and any other pertinent material, and enter a ruling revoking, suspending or ~~refusing~~ confirming the refusal to issue a license.
- B. When any applicant, bodywork approach business licensee or Asian bodywork approach practitioner licensee requests a hearing, the village administrator shall schedule an informal public hearing not later than twenty one (21) days following receipt of such hearing request. The village administrator may designate a hearing officer to schedule, convene and conduct the public hearing. In such case, the hearing officer shall have the same powers as the village administrator to administer oaths and to continue the hearing from time to time to permit the applicant or licensee, as the case may be, to provide additional information. The purpose of the hearing will be to offer the applicant or licensee an opportunity to show cause why the application should not be denied or the license suspended or revoked. ~~The village administrator may designate an administrative hearing officer.~~ A record shall be made of the public hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. The Illinois code of civil procedure shall not be applicable to such hearing. Hearsay may be admissible so long as the village administrator or hearing officer determines that it bears an indicia of reliability and so long as the rules associated with



hearsay are equally applied to all participants in the hearing. This record may be made by electronic recording. The village administrator or hearing officer shall have the power to administer oaths and to continue the hearing from time to time to permit the applicant to provide additional information. Where such designation has been made, the hearing officer shall submit proposed findings and recommendations to the village administrator within fourteen (14) days of the close of the hearing.

- C. Any violation of this chapter or unlawful act of any employee, or any independent contractor under contract with such business, of a licensed bodywork approach business committed on a licensed premises shall be attributable to the licensed bodywork approach business.
- D. Within twenty-eight (28) ~~one (21)~~ days after the close of hearing set forth in subsection B of this section, the village administrator shall make written findings of fact and issue an appropriate order. A copy of such order shall be promptly served upon the applicant, owner, or bodywork approach business license holder ~~or Asian bodywork approach practitioner license holder~~. If the village administrator determines that the license should be revoked or suspended, the suspension or revocation shall take effect immediately upon receipt unless otherwise specified.
- E. The decision of the village administrator as provided in subsection D of this section shall be the final administrative action of the village with respect to the license or application, and shall be subject to the immediate appeal by the applicant, bodywork approach business license holder, or Asian bodywork approach practitioner license holder to the circuit court of Cook County. Such appeal to the circuit court ~~or under the~~ administrative review act shall be filed not later than thirty five (35) days following receipt of the village administrator's findings and order. Failure to file such appeal as provided herein shall render the village administrator decision final. (Ord. 2015-77, 10-6-2015)

**3-29B-25: REIMBURSEMENT OF COSTS FOR INVESTIGATION RESULTING IN BUSINESS LICENSE SUSPENSION OR REVOCATION:**

In the event that the village of Bartlett conducts an investigation of a licensed bodywork approach business, which results in the revocation or suspension of its business license, the licensee shall reimburse the village for any and all of the village's costs for the investigation and hearing. In the event the village of Bartlett conducts an investigation of a licensed Asian bodywork approach practitioner which results in the revocation or suspension of the licensee's Asian bodywork approach practitioner's license, the said licensee shall reimburse the village for all of the village's costs for the investigation and hearing. Failure to pay such costs within ten (10) days' written notice from the village shall result in the continuance of any suspension until such time as those costs are paid and no bodywork approach business license shall be issued or renewed for such a business at the same location until such costs have been paid to the village. The village shall have such additional or further remedies for collection of such costs as are available by law. (Ord. 2015-77, 10-6-2015)

**3-29B-26: PENALTY FOR VIOLATION:**

- A. Any person, corporation, limited liability company, partnership, joint venture, association, firm or entity found guilty of violation, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation

occurs or continues. In addition to any other penalty, a license holder violating any provision of this chapter may be subject to having their license revoked, suspended or not renewed.

- B. Whenever a person, corporation, limited liability company, partnership, joint venture, firm and/or other entity violates any of the provisions of this chapter, the village may cause appropriate legal actions and proceedings, in law or in equity, to be instituted and maintained to enforce compliance herewith. (Ord. 2015-77, 10-6-2015)