

**VILLAGE OF BARTLETT**

**COMMITTEE AGENDA**

**APRIL 19, 2022**

**BUILDING & ZONING, CHAIRMAN HOPKINS**

Proposed Text Amendments for Massage Establishments  
And Bodywork Approach Businesses

**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 Establishments and Bodywork Approach Businesses      Committee or Board      Committee

## BUDGET IMPACT

Amount :      N/A      Budgeted      N/A

List what fund      N/A

## EXECUTIVE SUMMARY

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

- (a) prohibit massage and bodywork establishments in all Commercial, Industrial, Public Lands and Planned Development Zoning Districts;
- (b) allow massage and bodywork establishments as accessory uses to certain principal uses (i.e. medical facilities, beauty salons/parlors, physical therapy, chiropractic and physician's offices);
- (c) permit massage and bodywork establishments by right in the Office/Research District; and
- (d) allow massage and bodywork establishments in certain Planned Development Districts or in Planned Unit Developments where OR District uses are expressly listed as 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 three (3) year amortization period within which said uses shall be discontinued.

The **Zoning Board of Appeals** reviewed the proposed text amendments and conducted the required public hearing at their meeting on March 3, 2022. The Zoning Board stated they did not believe that moving these establishments to the Office and/or Planned Development Districts would resolve any issues, and in fact, because these uses would be more remote in their location, it would increase the potential for criminal activity to occur. In addition, the Zoning Board believed these text amendments would hurt legitimate businesses currently operating in the Village and that enforcement should be increased. **A motion to pass a positive recommendation on to the Village Board failed by a vote of 0-6.**

*As a result of the discussions that took place at the Zoning Board meeting, staff suggests further review and amendments be made to the licensing requirements for these establishments and to step-up enforcement as possible alternatives to the zoning text amendments. The licensing and enforcement changes would then be brought back to a future Committee of the Whole meeting for the Board to review.*

## ATTACHMENTS (PLEASE LIST)

PDS Memo, minutes from the ZBA meeting on March 3, 2022, draft ordinance

## ACTION REQUESTED

- For Discussion only - to review the minutes and failed recommendation from the Zoning Board.
- Resolution
- Ordinance
- Motion

Staff:      Roberta Grill, Planning & Dev Services Director

Date:      4.8.2022

**PLANNING & DEVELOPMENT SERVICES MEMORANDUM**

**22-25**

DATE: April 8, 2022

TO: Paula Schumacher, Village Administrator

FROM: Roberta Grill, Planning & Development Services Director 

RE: **(#21-16) Proposed Text Amendment to Title 10 Zoning: Massage Establishments and Bodywork Approach Businesses**

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**DISCUSSION**

Currently massage establishments and bodywork approach businesses are permitted by right in commercial districts as a personal service under the Zoning Ordinance. As directed, staff has drafted the attached text amendment to the Zoning Ordinance that would:

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

Staff understands that hair and/or nail salons may also 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 establishment or bodywork approach license, if massage or body work is proposed as an accessory use.

Also included as part of this text amendment is the elimination of nonconforming land uses. If this text amendment is approved, the establishments currently located in a commercial zoning district would become nonconforming and would have a three (3) year amortization period within which said uses shall be discontinued.

**RECOMMENDATION**

The **Zoning Board of Appeals** reviewed the proposed text amendments and conducted the required public hearing at their meeting on March 3, 2022. The Zoning Board stated they did not believe that moving these establishments to the Office and/or Planned Development Districts would resolve any issues, and in fact, because these uses would be more remote in their location, it would increase the potential for criminal activity to occur. In addition, the Zoning Board believed these text amendments would hurt legitimate businesses currently operating in the Village and that enforcement should be increased. **A motion to pass a positive recommendation on to the Village Board failed by a vote of 0-6.**

***As a result of the discussions that took place at the Zoning Board meeting, staff suggests further review and amendments be made to the licensing requirements for these establishments and to step-up enforcement as possible alternatives to the zoning text amendments. The licensing and enforcement changes would then be brought back to a future Committee of the Whole meeting for the Board to review.***

The minutes from the Zoning Board of Appeals meeting held on March 3, 2022 and the draft ordinance are attached for your review.

/rbg

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Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

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**(#21-16) Massage Establishments and Bodywork Approach Businesses  
Text Amendment  
PUBLIC HEARING**

The following exhibits were presented:

**Exhibit A – Notification of Publication**

**Exhibit B – Letter from Massage Envy, Bloomingdale**

**Exhibit C – Letter from Kate Piscopo, LMT**

**Exhibit D – Letter from Leah Ziegler Hammerl, LMT**

**Exhibit E – Letter from James Speaker, AMTA**

**Exhibit F – Letter from Laura B. Embleton, ABMP**

**R. Grill** currently massage establishments and bodywork approach businesses are permitted by right in commercial districts as a personal service under the Zoning Ordinance. As directed, staff has drafted the attached text amendment to the Zoning Ordinance that would prohibit massage establishments and bodywork approach businesses in all commercial, industrial, public lands and in certain Planned Development zoning districts; allow massage establishments and bodywork approach businesses as accessory uses to certain principal uses such as medical facilities, beauty salons/parlors, physical therapy, chiropractic and physician's offices; permit massage establishments and bodywork approach businesses by right in the Office/Research District; and would allow massage establishments and bodywork approach businesses in certain Planned Development Districts or in Planned Unit Developments where Office/Research uses are expressly listed as permitted by right such as in the Blue Heron and Southwind developments. Staff understands that hair and/or nail salons may also wish to offer massage therapy as an ancillary use. This text amendment addresses this issue by requiring these uses to also apply for a massage establishment or bodywork approach license, if they want to have massage or bodywork proposed as an accessory use to their salon. Also included as part of this text amendment is the elimination of nonconforming land uses. If this text amendment is approved, the establishments currently located in a commercial zoning district would become nonconforming and would have a 3-year amortization period within which said uses shall be discontinued. **M. Werden** roughly how many establishments would that affect now? **R. Grill** that would affect 5 businesses that I know of now. We have one that has not opened since COVID. We are still trying to validate if that is going to continue or not. **B. Bucaro** can you provide the locations? **R. Grill** the locations are 337 S. Prospect Avenue, 140 Bartlett Plaza, 191 E. Lake Street, 949 S. Route 59, 1689 S. Route 59, and 850 W. Bartlett Road. **M. Werden** would the 850 W. Bartlett Road location be in an area that would be permitted? **R. Grill** yes, that is zoned Office/Research and would be allowed to stay. **G. Koziol** I was disappointed when I started to read this ordinance. It talks about a number of business districts. I do not think that all of the members of the ZBA are familiar with where these are located. The map with those areas plainly spelled out with the locations of the businesses should have been provided to us. Is staff going to read the entire ordinance? **R. Grill** no, we typically do not do that. If you have specific questions outlined in the ordinance we would be happy to address those. If you have legal questions, I would prefer that we have our village attorney sworn in at this time. **Bryan Mraz, Village Attorney** of 111 E. Irving Park Rd, Roselle came forward and was sworn in by **M. Werden**. **B. Mraz** stated that he did not need to be sworn in to answer questions with respect to the legal document, which is the proposed draft ordinance before you, but I would like to give a little history of some of the efforts and prosecutions



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

---

of various businesses at different locations over the years where massage establishment licenses were suspended or revoked just so that you have some background as to the issue. I believe we have good regulations with respect to our licensing and we are looking to improve more with respect to these types of businesses. We have Chapter 29A in the municipal code dealing with massage establishment and we have 29B dealing with Asian bodyworks establishments. We can regulate the businesses. We do not regulate the licensed massage therapists. Those licenses are issued by the State and not by the Village. We have had a number of allegations that have been investigated by the Police Department over the years and charges of prostitution. Those complaints are issued to the licensee whether it is a massage establishment licensee or the business licensee. The Village prosecutor prosecutes at a hearing before the Village President and there is often a disposition. I have been the Village Attorney for over 30 years and with respect to these addresses there have been a number of businesses that have been bought and sold at those same locations and often it is when the Village issues a complaint relative to the illegal uses going and takes it through a process whether it is a suspension, a fine and/or revocation and the business owner sells the business and we start over with a new massage establishment in that same location. **R. Grill** I want to make sure that it is very clear to you that there are 2 issues with massage establishments and bodywork approach businesses. Before you tonight is only the zoning. This is a text amendment to the Zoning Ordinance. The second prong of this is the actual license restrictions. That is not before you tonight. What is before you tonight is the zoning and the zoning districts that this would apply to and that we are proposing amending. **B. Mraz** I was giving you background as to where this proposed text amendment came from. I think it would be more appropriate if I answered your legal questions first about the ordinance itself. **M. Werden** are we proposing to allow this in farther out areas, not busy commercial strips? **R. Grill** the map identifies areas where the massage establishments and bodywork approach business could be located if this text amendment is passed. **M. Werden** they would be more isolated than areas closer to downtown making it easier for them to get by with things that we do not want them to do. **R. Grill** that is not a zoning issue. **G. Koziol** the fact that they are going to be eliminated from the business districts is a zoning issue. I find it difficult because I do not know where all of these areas are. I wish I could look at a map and see where these would be. I do not understand from these codes. I feel that I am asked to make a decision here tonight when I do not have all of the information that I need. Why were we not provided with a map in the packet that identifies these areas? **R. Grill** this is the zoning map and it is available to anyone. **J. Banno** under the current zoning with these establishments, if they do not operate in a legal manner currently does the Village have authority to shut them down or fine them substantially? **B. Mraz** yes. **J. Banno** in view of that, I am opposed to zoning out of these other areas. **B. Mraz** we have a good and thorough licensing ordinance and in that there is the ability to suspend for up to 30 days and fine up to \$1,000 for each violation and when particularly egregious, we can revoke the license. There is a process. First there is the complaint, a hearing, and then a disposition by the Mayor. Over the last 30 years, when we work through that process and there is a finding of guilty, the owner will sell the business and then there is a new massage establishment. There is a provision if there is a revocation that a new business cannot reopen at that same location for a number of years, but they often sell before the whole prosecution process is completed. For example, in Bartlett Plaza, now Streets of Bartlett there was a corporation that operated for a while as Classic Massage, originally Thai Massage, doing business as Classic Massage going back to April 2021. That owner sold to an individual and that individual had an employee that was arrested for prostitution. In that instance, it was very blatant. They formed an LLC and applied for a new license, so they were actually operating



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

---

without a massage establishment license and that business was shut down, but did not go through the whole process. It was shut down because they left and it was sold to another company, MT Tang Spa Inc., doing business as Shutai and that is the current owner. There are a number of these going back to 2015. The Asian Spa, Feng Lin Spa, and A+ Therapy all have operated out of the 377 S. Prospect Avenue site. Zen Spa, at 949 Route 59 has had roughly 5 different owners and there have been various complaints and suspensions. There have been problems and the Village has tried to prosecute those. We believe that the best solution is to down zone them in this manner. The current massage establishment on W. Bartlett Road that is zoned O/R, the Village has had no trouble with. If we were to take the total area of the O/R zoned property in the Village it would comprise of roughly 1.85% of the Village and if you exclude the Forest Preserve District it would be 2.35 percent. Currently, the B1, B2, B3, B4 and Commercial PD sites account for 3.37% of the Village or 4.28% excluding the forest preserve. We also have a number of accessory uses where we allow it as a permitted use as an accessory to the permitted businesses mentioned. It would be allowed in those areas, but it would be in connection with other businesses. Legally, if the Village Board approves this, we believe it will be a deterrent. When these types of uses are involved they are often in retail centers. There are often scantily-clad workers out in these shopping centers. We have had complaints from the neighbors across the street and from patrons and businesses in the shopping center. There is a negative effect on the neighbors and other businesses near those areas. Part of the area out west for example Blue Heron, that is a Planned Development with commercial, industrial and O/R uses allowed and it would be allowed there. There is some commercial out in that area. I can answer questions with respect to the ordinance. The Village does have the ability to adopt ordinances if there is a rational basis for it. The Village has the legal ability to gradually eliminate uses if they are incompatible with the character of the location. These uses have secondary affects that arise from them on surrounding properties, neighboring business, and residential uses that are negative. **M. Werden** you mentioned scantily-clad people. Are these people trying to attract business? Are they employees? **B. Mraz** no, that is just how they are dressed. They are outside smoking and people are coming to the shopping center with their kids. For instance, on Prospect Avenue, there were several instances that I can recall at that particular location. **M. Werden** did staff receive any calls or comments from the public while the notice was posted? **R. Grill** I had 2 FOIA requests, but nobody came in. **M. Sarwas** the businesses that we have had problems with in the past, was massage their sole service that they provided? Were they combined with a nail salon? **B. Mraz** these were solely massage. There was a time period when these businesses were not licensed by the State as Asian bodyworks and the State was not regulating that. The Village moved to plug that gap to try to regulate that, but more recently, we have seen arrests with licensed massage therapists not just the Asian bodyworks practitioners, which were not regulated by the state. **M. Werden** when was the most recent case where we had a legal issue or enforcement issue with them? **B. Mraz** in October 2021. **M. Sarwas** how would we address a large franchise like Hand and Stone or Massage Envy that would certainly not go into a hidden spot in the Village and would generate revenue? **B. Mraz** you are correct, they would not be allowed except in those areas. The Village cannot draft an ordinance to make an exception for a national franchise and eliminate others. You are correct, this ordinance would dissuade the large franchises from operating if they only want to operate in a commercial district. **G. Koziol** in the areas where these businesses are today, can we monitor and enforce the rules that we have in place today. Why do we have to put them in remote areas of the Village? What is to say that if we put them in these more remote areas that enforcement will take place in a manner that we better like? **B. Mraz** the police department works countless hours sending



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

---

officers in undercover based on the complaints by a neighbor or by someone who witnessed what they believed was going on and that generates the investigation of that site. There has to be an occurrence of a violation that would start the whole process. **G. Koziol** the problems of enforcement today will probably be the same problems tomorrow in these new areas. I am afraid that these new areas would create a red-light district. **B. Mraz** I do not agree. I think it will be a deterrent. Some people will not want to go into the industrial district and so I think there will be fewer. I do not think they will move into those areas. The Village cannot have exclusionary zoning to exclude a use. Adult uses can be allowed in industrial areas. Do you want them there? Do you want them anywhere? Generally, no, but they have to be allowed somewhere and this is the same type of concept. They often do not want to be in industrial areas. If these establishments are in commercial areas, they are affecting residences and businesses more directly. I believe there will be fewer because they will not want to go there. **G. Koziol** I feel like the goal is to disincentivize businesses like this from opening in the Village. **B. Mraz** yes. **G. Koziol** if it can happen to businesses like this today, what is to prevent it from happening to other businesses tomorrow? **B. Mraz** hopefully, the Village Board would not do that. There has been a history of problems. It is the belief that the current regulations are not enough and that this amendment will be more effective than regulations that historically have not worked to solve the problem. **J. Banno** this proposed change to the zoning is going to prevent establishments that want to operate within the perimeters of law from operating in areas of the Village that are more desirable. Whereas establishments that are not going to follow the laws are going to operate as they wish wherever they are. **B. Bucaro** I agree with that. Those businesses know the system. This would just be moving the problem from the commercial districts to the O/R district. I do not think the problem is going to go away. We see how they buy each other out and change the name. They will do that as much in an O/R district as they do where they are now. The legitimate establishments are the ones who are going to be hurting because they will not have the visibility. I do not think the other ones need the visibility. They advertise on the internet. In some regards, they might like being in a remote area more. This will just move the problem. We need to eliminate the problem. **B. Mraz** let me give an analysis of what has happened. Way back when, dirty book stores were allowed in towns in commercial areas and since you cannot exclude it, they were located in less desirable areas and those businesses did not want to be there, so on the contrary, we would not have a red-light district. I think it is analogous to that. I do not believe this will just move the problem, but eliminate or minimize the problem. I think it will be a deterrent in the sense that they do not want to be in these less desirable areas. **G. Koziol** I feel like this is semantics. We are saying yes, you can have this business, but we will only offer you less desirable locations in the Village. That is not fair. **B. Mraz** this continues to be a problem. There are tools in the current ordinance, but that alone has not been successful and has not solved the problem. This change is an extra layer of protection from a zoning perspective. **G. Koziol** I feel like we are declaring these businesses as bad first and likely never to be proven as good. I think it should be the other way around. I think it should be declared as a good business until they have violated the law in some fashion. **B. Mraz** that is the issue of regulation and we are modifying those as well, but almost every one of the locations that I mentioned but for the O/R and some of the newer locations have had violations. We do go through a process when there is a violation and there have been penalties imposed, but that has not solved the problem. We are trying to solve the problem from a zoning standpoint because regulations alone have not been effective. **B. Bucaro** is there a limit to the number of massage establishments that would be allowed in any O/R district? **R. Grill** no, we are not limiting the number. We are permitting them by right. **G. Koziol** a business today that would face





Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

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the 3-year amortization would have to relocate into one of the O/R districts if they wanted to stay in Bartlett and if there was no space available they would be forced out. **R. Grill** that is correct. **M. Sarwas** is there space available in any of those sections today? **R. Grill** some of these areas are still vacant. **J. Banno** are there other villages that are using this type of ordinance for enforcement or are we the first? **B. Mraz** this is somewhat novel. The Cook County Zoning Ordinance lumps massage establishments with adult uses. We do not call them adult uses, but Cook County put them with other adult uses and has relegated them to industrial areas in unincorporated Cook County. **G. Koziol** can you specifically name other towns that are doing this today in this manner? **B. Mraz** no, not on massage, but on other uses. We looked at case law and adult uses have been done in this manner, but in terms of another town that has adopted what the Village is proposing, no. **R. Grill** there are some towns that allow massage establishments and bodywork approach businesses as accessory businesses. That is not unique to Bartlett. We did research and found several towns that have regulated those establishments in that manner in conjunction with a doctor's office or chiropractic office, health club or gym, they allow massage establishments as an accessory use. **G. Koziol** this would force the independent business and entrepreneur from opening unless they wanted to work under a chiropractor or beauty salon business. **R. Grill** it would be allowed in the O/R district or the PD district as a principle use.

**M. Werden** opened the public hearing portion of the meeting.

**A. Hopkins** of 976 S. Chippendale Drive, Bartlett came forward, was sworn in and stated, obviously, I am opposed to the zoning text amendment. This is a slap in the face to massage therapists. I understand where staff is coming from and I am glad that the Village attorney is here tonight and spoke about some of the instances in the past because something did happen in 2015 and at the time, the Village Board asked if I would sit down and talk with the Village attorney, we met and that is where we came up with the other licensing for practitioners of Asian bodywork. Obviously, Illinois is now going to regulate them so that aspect has to be changed, but there was some other great stuff that got put into that ordinance and so I want to share with you guys what has happened since 2017 because I did FOIA for documentation after that ordinance was passed and I wanted to see, almost as an independent audit, what was happening with that type of ordinance that went into effect. Let me cite some of the things that I found. There are things that are redacted and things that I am not entitled to, but from what I have found and this goes into what warrants a zoning change and this is information that you need in order to make a zoning change, which is very much important for a zoning change. Here is what I found. Since 2017 to today, which is 2022, zero code violations have been sent to any massage establishment, 2 complaints have been reported to the police department, and zero fines have been issued related to code violations. There have been unfortunately, 2 arrests, but as the Village attorney stated, 1 of those establishments did not have a massage establishment license, so technically, there has only been 1 arrest at a massage establishment. If you want to claim 2, that establishment would not have re-opened because in our ordinance it clearly states that if there is an arrest for prostitution that is a revocable offence. This happened in 2017; however, the Village decided not to revoke the license. There has been 1 letter sent to the Village from residents or business owners about 1 establishment. That is what I found. The police have been called out to some establishments and they do compliance checks. We also touched on enforcement. It is very hard to enforce these places. I spoke to the Village Board in November about curtains in the windows. If they cannot enforce curtains in the windows, how do they enforce everything else in the ordinance? This is an easy thing



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

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when you drive by. Our ordinance clearly states that there has to be an unobstructed view into the waiting room area. The Village attorney stated that they are walking around scantily clad. Okay, great, from 2017, there is no documentation that ever existed and if it did, I was not able to get that information or that information was withheld from me illegally and if that takes place that is reported to the Health Inspector. A code violation is then sent. That is the proper procedure in that case. Again, enforcement. This is such an issue. This is such a problem. How many times is this enforced? There is an email response stating that it is twice a year. I will tell you, since 2017, I am going to say it is about 62 months, of the establishments that have been open since 2017, there were a couple that for some reason, I did not get the applications for, which was part of my FOIA request, which I am a little concerned about, but will say there are 3 establishments, of those 62 months, there have been 8 inspections conducted by the Village Health Inspector. That does not sound like a lot of enforcement to me. However, on behalf of the Village, I will say that the police do compliance checks. It is not as many as the health department does. I do not want to go into the numbers and specifics of that, that is a police issues and I feel like the Chief of Police should have been here to talk about that. **M. Werden** one clarification, the health department? At what level? **A. Hopkins** the health inspector, I believe his name is Bruce, he is employed by the Village. He will check to make sure the business hours are posted. He will check to make sure that the therapists are properly licensed. He will check to make sure they have their driver's license to match the State ID. He checks to make sure hot water is working and things like that, but again, there are several times where he went there, noted on his reports that the blinds need to stay open and sometimes he marks that there has been a re-inspection, but there is never any documentation that he has gone back to reinspect and the curtains in the windows violations, those stand. You can drive by some of these establishments. You cannot see in. That is a problem. We have to figure out a way to enforce that. Staff also mentioned the accessory use. I am glad they are putting this in here because this is something that I asked for in 2015 because a beauty or nail salon can have massage and before, the Village could not regulate them, so I applaud them for adding that. However, I should let you know that will increase enforcement time for the Village and staff dedication because there are 15 to 20 beauty salons in the Village. All of those now have to be enforced. You have to go in there and make sure they are not doing massage. That is going to take up staff time, but I am okay with that because that is an option after the 3-year period. As one of the commissioners mentioned, after the 3 years, one of their options is to open a nail salon and still have a couple of rooms in the back as long as, I believe the percentage is 20% of the business, is not dedicated towards massage, we could stay in business in those locations. Franchises will not be allowed in the Village if this passes. They could go on the west side of town, but again, the franchises look for desirable locations and higher traffic like off of Route 59 or Route 20 and that is important. The Village attorney referenced adult books stores. Why are you lumping every massage establishment in with adult use? Maybe 40 years ago, before the internet that was a thing, but today, it is different. There are so many different modalities of massage. You are wiping out a whole licensed profession saying that if you want to work in the Village of Bartlett you are going to have to work in a chiropractic office or a medical facility. I work for Massage Envy because I need the flexibility, but one day, I would love to open a medical massage business, but I would not be able to do it in my hometown where my family has called home since 1938. It would not be allowed. That concerns me and not just for myself, but for other potential business owners and people that are in school now. What do we tell them, that the \$10,000 to \$20,000 you are spending on schooling, Bartlett does not care? Bartlett views you as an adult use and that concerns me. Back to my original point, it is enforcement. The amendment to the



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

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ordinance that the Village Board is going to look at does strengthen enforcement, but enforcement does not do anything unless you actually do it. I am going to state to the Village Board that they need to give staff directives to enforce this. I did lay out for the staff, they did not even want to hear it, when I had to sit down with them, easy ways for staff to enforce this to make sure all areas are covered without making it invasive or increasing staff hours dedicated to this. One thing I did find throughout all of my FOIAs is that everything is kind of all over the place. It looks like there is no organization and I think that is part of the issue with the enforcement. There are things all over the place. People have to look for things. Things are not properly dated and the inspections are scribbled on and not even on official massage establishment forms, they are on food establishment forms and they just cross that out and put things on there, so I think there needs to be updates to those procedures as well. I could go on and on and on. I would love the opportunity if there is something I need to rebut because I do have a lot of information with me, statistics and facts from the past 5 years that I can recall if I see any discrepancies. I want to remind you that massage therapy is not sex work. I want to make that clear. Voting against this does not mean that you support prostitution or human trafficking even if that is what staff wants you to believe. **Linda Moore**, 3435 Grand Blvd, Brookfield was sworn in and stated, I have been a massage therapist for 30 years and I have been a massage educator for 20 years. I have worked for the Illinois State Board and I am board certified. I currently own my own practice. Massage therapy has multiple aspects and benefits for various people. If I were to open a business in Bartlett I am not sure if my clients would be able to come. The clients I work with have medical issues. Having worked on the State Board we have looked very hard at how to understand this issue. I looked at the ordinance that you already have and I am impressed with that ordinance. I feel that enforcement within the ordinance that you already have is definitely going to be of benefit. As some people on the committee here mentioned, in isolating things, you are creating a red-light district. The attorney was mentioning the Asian bodyworkers and there is currently a senate bill that is being worked on to get licensure for Asian bodyworkers. They are looking into organizing and licensing that aspect because they are exempt from the Massage Therapy Act. I ask that you please vote no on this ordinance and see if you can look at enforcing the ordinance that is already in place. **Lurana Bain** of 428 Mill Street, Batavia was sworn in and stated, I am the Director of the Massage Therapy program at Elgin Community College, a licensed massage therapist with the State of Illinois and a Board-Certified Massage Therapist. Massage therapy as a profession holds its members to ethical professional standards. This profession, which is as legitimate as physical therapy, occupational therapy, and esthetics is being singled out and discriminated against. Other licensed professions have not been regulated to the fringes of a community. I would like you to consider the impact of the proposed amendment. When Bartlett initially enacted this ordinance several years ago multiple municipalities used the ordinance in creation of their own and looked to Bartlett's current ordinance as a solid ordinance to amend and use. In this capacity, Bartlett has been a leader. The current ordinance may not be perfect, but it is good as evidenced in many others using similar versions of it successfully. I ask that the committee to consider if this is actually a zoning issue or more likely a zoning enforcement issue, which would negate the need for a zoning change. Please consider the impact of your decision to all of the stakeholders involved and vote no to this change. I would be happy to work as a consultant free of charge on anything the comes your way as a town and I know there are many other professional massage therapists who would also welcome the opportunity to make a positive impact on this profession in your town. **Mike Kelly** of 118 Bartlett Avenue, Bartlett was sworn in and stated, I have been an attorney in Bartlett for 39 years. Tonight, I am speaking for several owners of massage



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

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spa businesses in Bartlett; Shutai, A+ Therapy and Zen Spa. This is the only group that I am speaking for this evening. I would like to thank the board. I know how hard you work and I do not know if everybody here knows that you are volunteering your time week after week, so I certainly appreciate it. Some of you have been here for decades, I know, so we appreciate it. I strongly disagree with this ordinance. I appreciate the hard work of the staff. They try very hard and it is an honor to be here with Mr. Mraz who is undoubtedly the best Village Attorney that I know although I disagree totally with what he has said here this evening. I want to thank Mr. Hopkins and the ladies who spoke. A lot of the statistics that have been used were identical so I can totally support what was said under oath from these people that spoke earlier. I have been here for 39 years. I am 66 years old. I have a business that supposedly, whoever came up with the ordinance, thinks could be trouble right in the middle of Gorski's parking lot so let's move it out to Blue Heron where it is nice and private and nobody is out there. What is it more likely going to happen? Where is the bigger problem going to be? Is it going to be out there or is it going to be here? We know there are going to be way bigger problems when any business regarding people in the evening is stuck out in the middle nowhere. If these businesses are required to move, someone on the board said it earlier and I could not have said it better, what is next? Certainly, we know we have a good board and this present Village Board is not going to hurt anybody, but there are going to be many, many, many Village Boards after this and you have given them the gun. You have said okay, here it is, you can kick somebody out and who is going to be next? We know there will be somebody next. Maybe not next year. Maybe in 5 years, but the precedent will have been set and you cannot unset it. As far as the time devoted, I appreciate that there have been inspections and over 40 years here, yes, of course there have been problems in every business, but I tell you, if we just examine bars, where is more police time spent, trouble at bars or trouble at massage spas? I will bet every dollar that I have and ever will have that it is hundreds of times, maybe thousands of times more spent fixing problems, fights, traffic accidents, DUIs, under aged drinking, and that is the bars. I am not beating on the bars, but nobody is asking to move the bars. Lastly, just any comparison to the Asian massage and dirty book stores and adult uses is just completely unfair. These are ladies that have children. One of the daughters is here. These are fine ladies and to compare it like that is insulting. In my view, this ordinance, with due respect to the staff is discriminatory. The ordinance clearly discriminates against Asians. It deprives them and will deprive them of their property rights. There is no mistake, Asian is used throughout the ordinance. I do not see any other race. I do not see Irish. I do not see anybody else, I see Asian. This proposed ordinance would do no good in my view and would not help anyone. Instead, it would just discriminate against these hard working people. I do not know what makes a Massage Envy and I have nothing against Massage Envy, they are fine organization, but what makes a Massage Envy or Hand and Stone good, but an Asian massage bad? I do not know, but that seems to be the idea. These people are US citizens. You people here need to know that. These people came to America. They worked hard. They became citizens. They were not born into it like me or most of us here, they worked at it. They have built these businesses by their own hard work. I asked them, they each average 72 hours a week and never get a vacation. They work every day. They work incredible hours. They do not hurt anybody. They provide a valuable service. They do not hurt the community. They do not get any TIF money. They do not get any BEDA money. They do not ask for money from the tax payers. They follow the law. They are licensed professionals. They have to get licensed. They are inspected by the Village. They should be inspected by the Village. This town we know has dozens of gambling establishments. They are in nearly every restaurant and bar. Studies have shown that gambling is a major cause of family breakdown, domestic abuse, and suicide. I



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

---

have seen no move to prevent gambling. I just see it expanding. Every month there is another one. In this town we have dozens of bars and liquors stores. Like I said, countless studies have shown that alcohol contributes to domestic abuse, family breakdown and drunk driving, alcohol-related accidents and fatalities, but like I said, I do not see any move ever to keep bars out of this town. Massage therapy, as indicated earlier, I am sure no expert, I just read about this before I was here, but it has a very positive impact on mental health and many studies have shown massage therapy helps with anxiety and depression. Studies have shown a direct causal relationship between massage therapy and help for those who suffer from anxiety and depression. The *Journal of Military Medicine* recently published research that found massage therapy helped military veterans suffering from pain, worry, anxiety and depression. Massage therapy is a part of almost all posttraumatic stress disorder treatment for veterans. To me, in my opinion, this ordinance is discriminatory and unconstitutional on its face. These owners are single moms and the sole source of their income for their families is their business. Like I said, they are United States citizens. They pay their taxes. They have invested their life savings into buying these businesses. Their businesses are not cheap. They have borrowed or used all of their savings so this is everything to them. That is all they have. If this ordinance is passed it will be taken away from them. They will lose everything. All of their work would have been for nothing and just thrown away because they cannot have their business where they built it. The Village as was said earlier, has many rules that can be enforced. Enforce the rules, do not just throw these people out. That is where due process comes in. This would effectively steal their businesses. The 3-year sunset provision is really worthless. If you know your business has to shut down in 3 years it has not value. Who is going to buy a business that they know is going to shut down in 3 years. Oh great, we do not shut it down this month, you have 36 months, but you cannot have it here so nobody is going to buy it. The ordinance targets dramatically the majority Asian citizens and business owners, and again, in my opinion, it is discriminatory. The ordinance ignores the medical benefits that massage therapy provides for those suffering from depression and anxiety as I said. These spas are singled out not on the basis of the harm to the community, which really, I have not heard any, but evidently on the type of business and Asian nationality of the people. These therapists are licensed by the State of Illinois and the Village. They are asking nothing from this government except to operate a business and to raise their children. When they came here from communist China they were told this was the American way, that they could build a business and if they did good, worked hard, and followed the rules, they would do well. They work hard and follow the rules, but they are being told that because other people do bad things in other towns, which I do not know where they are, probably Chicago, then they are going to be punished. I think this ordinance is very unfair. It is the most unfair thing I have ever heard of. I cannot remember anything more unfair. I ask you to vote no. Do not take away these people's business and do not take away their savings and everything that they have tried so hard to build. **Rudy Fan** of 1689 Route 59, Bartlett was sworn in and stated, I think a lot of people here know that being an entrepreneur is hard and now you are making it harder. If I had a salon or a doctor's office I would not want to make room for massage. That would not be feasible. If a business wants to do bad things they will do it regardless of where they are located. Trying to move them from one space to another is not going to solve the issue. The zoning would be so limited and in the same spot. How would you have 5 massage establishments in one area? This ordinance will just create more problems and not fix the problem. There are other ways to fix the current situation. You cannot completely eliminate one thing because it is not perfect. Passing this ordinance in my opinion will just create more issues. **Natalie Pendergrass** of 22 S. Alfred Avenue, Elgin stated, I have my own massage practice. That is the second location that



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

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I have worked out of. I now work out of my home, which is zoned by the board. Thankfully, our board was willing to hear my case and I was allowed to get special zoning. My first location was a store front on Larkin Avenue, which is a main busy street through town where I was able to open 3 massage rooms at a reasonable rate for my fellow massage therapists who graduated with me. I have been teaching at Elgin Community College for nearly 20 years and have educated many massage therapists who have gone on to be wonderful therapists. Massage therapy can do so much for so many. I have been able to help clients that were told they need surgery, but have come to me for therapy and no longer need surgery. I train people to do things like that because people do not always want surgery or medication. They might want a way to heal with hands on therapy, which has been proven historically to be beneficial. Massage therapy has a very long history. It is one of the oldest traditions and yes, prostitution is as well and we cannot help that. We cannot control the fact that prostitution has been made illegal and there are people who still choose to practice that. That is beyond our control. However, we also cannot control the fact that they have chosen massage therapy as the closest thing they can come up with because they consider themselves hands on. That is not our fault and should not be held against us. Rather, we would like to see the villages, boards and code enforcement officers doing their jobs and enforcing what is legal and what is not legal. All of us who are practicing legally and helping to improve lives want to be able to continue working legitimately, legally, and in reasonably priced places. I was able to rent space to other therapists at a reasonable rate. A friend of mine works for a chiropractor and has to pay \$1,000 a month to do so. You are putting us out of business in multiple ways if you pass this zoning. It is unfair and should not be allowed to pass. It is racially biased and I am very offended by the fact that my profession was compared to prostitution during this meeting. There is not one race who has done this more than another. Thankfully, the state law is coming in alignment with what it should be, but now we also need everybody else to accept that massage therapy is a legitimate profession. We are licensed. We have trained hard and we work hard. We get continuing education every year. I am a nationally recognized educator and I will be teaching at a state conference next week. I plan to continue teaching because I find what we do extremely valuable. **M. Werden** I think this ordinance change is absurd. I have been on this board for over 42 years and I have never been more opposed to something than I have been today. We have had our intelligence insulted. Why would we think that moving things to an industrial area is going to solve the problem? It is not going to solve the problem. The more isolated, the more they can get by with things. I certainly hope we vote this down and that the Village Board is not foolish enough to override us. **B. Bucaro** I think this ordinance puts the cart before the horse. The existing ordinance is a model for other communities. I looked at Schaumburg and St. Charles. I do not agree that moving these establishments will be a significant deterrent. I believe the deterrent will be for the bad actors to look at Bartlett as having a strong reputation of enforcement. I do not think this is the right thing to do. It is sending the wrong message to the profession and the wrong message to the entire business community. **M. Werden** I think we blew it with this proposal. **C. Deveaux** the curtains being open at these establishments. I noticed at the establishment at Streets of Bartlett, the curtains are not open. Code enforcement needs to be improved. I think that will be caught more in a busy area than in an isolated area. **G. Koziol** I have been on the ZBA for 19 years and I totally agree, I have never been so strongly set in my opinion on how this should be and it should be that we do not approve this ordinance change as it exists today. It is the wrong way to do things. **M. Sarwas** I appreciate that this is a problem that needs to be fixed and as a Village resident I am appalled that we have these kinds of problems and we do need to do something about it, but I think we are attacking the wrong problem. Maybe it



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

---

is not just the enforcement and maybe it is not just saying no to this ordinance change. There may be some other solution that we need to look at. We owe it to our businesses to be fair. I come from an industry that is discriminated against and has been banned from other towns in years past so I get the hardship, but I also understand that we have to do something to protect the residents in the Village, but I do think there is a different way to do it. I think we need to do more investigation before we just make a sweeping change that could drastically change the lives of many people. **B. Mraz** I understand your points and I understand your concerns. We have worked at improving the regulations. The Board has looked at that at a Committee level. I strongly disagree that this draft is discriminatory. When we use the term Asian bodyworks, that is a defined term in State and Village regulations. We were specific and tried not to discriminate in trying to solve this problem because of the number of bad actors, but there was no intent to discriminate against people of Asian descent, it was written neutrally. Enforcement is more what we are hearing. We are proposing a drastic step and we have just heard your input and opinion with respect to the text amendment that is before you.

**G. Koziol** made a motion to pass along **a positive recommendation** to the Village Board to approve case **(#21-16) a proposed Text Amendment to Title 10 Zoning Massage Establishment and Bodywork Approach Businesses.**

**M. Werden** closed the Public Hearing portion of the meeting.

**Motioned by: G. Koziol**  
**Seconded by: B. Bucaro**

**Roll Call**

**Ayes: None**

**Nays: M. Werden, B. Bucaro, J. Banno, C. Deveaux, G. Koziol, M. Sarwas**

**Old Business/ New Business**



Village of Bartlett  
Zoning Board of Appeals Minutes  
March 3, 2022

---

**M. Werden** what is the next step? Will this go to the Village Board at the end of the month? **R. Grill** we will let you know. The next step is Village Board Committee. I do not have a date yet for certain. **M. Werden** asked if there was anything else coming up. **R. Grill** no, not that I know of. **G. Koziol** thank you to everyone who showed up tonight and spoke. We appreciate it. I am glad to know that people care.

**M. Werden** asked if there was a motion to adjourn.

**Motioned by: C. Deveaux**

**Seconded by: M. Sarwas**

**Motion passed by unanimous voice vote.**

**The meeting was adjourned at 8:50 pm.**



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

**AN ORDINANCE AMENDING THE BARTLETT ZONING CODE, TITLE 10, TO MAKE MESSAGE ESTABLISHMENTS AND BODYWORK APPROACH BUSINESSES PROHIBITED USES IN THE B-1, B-2, B-3, B-4, I-1, I-2 EDA, 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 MESSAGE ESTABLISHMENTS AND BODYWORK APPROACH BUSINESSES PERMITTED USES IN THE OR DISTRICT AND IN A PD DISTRICT WHERE THE SOLE UNDERLYING ZONING IS OR, AND/OR WHERE OR USES ARE EXPRESSLY LISTED AS PERMITTED USES IN A PUD**

\_\_\_\_\_

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

**SECTION ONE:** That 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.

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

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

"ASIAN BODYWORK 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 bodywork 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 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 EDA General Industry Economic Development Area District (“I-2 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 establishments” and “bodywork approach businesses”; and to make “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 OR 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 OR Office/Research District by reference as permitted uses in such Planned Unit Development or in such area(s) of a PUD designated as OR Office/Research designated on an approved preliminary and/or final PUD Plan as OR Office/Research or for OR 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 establishments and bodywork approach businesses” as accessory uses but only incidental to the following principal uses in each of the B-1, B-2, 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 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 establishments", and "bodywork approach businesses" as permitted uses in the OR 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 establishments, P, Title 3 Chapter 29A of the Bartlett Municipal Code  
Bodywork approach businesses, P, Title 3, Chapter 29B of the  
Bartlett Municipal Code

**SECTION FIVE:** That 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 establishments and bodywork approach businesses are permitted uses only within a PD Planned Development District designated solely for OR Office/Research uses, or in Planned Unit Developments where the underlying zoning is OR Office/Research, or within such areas of a Planned Unit Development shown and designated

as OR Office/Research on an approved preliminary and/or final PUD plan, or which expressly lists Office/Research uses as permitted 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 establishments, and bodywork approach businesses are permitted uses in Planned Unit Developments where the underlying zoning is OR Office/Research, or within such areas of a Planned Unit Development shown and designated as OR Office/Research on an approved preliminary and/or final PUD plan, or which expressly lists Office/Research uses as permitted 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 Establishments and Bodywork Approach Businesses as Nonconforming Uses. After considering the specific public purpose or interest that is being served by the elimination of "massage establishments" and "bodywork 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

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 Giles, Village Clerk

## CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2022-\_\_\_\_\_ enacted on \_\_\_\_\_, 2022 and approved on \_\_\_\_\_, 2022, as the same appears from the official records of the Village of Bartlett.

\_\_\_\_\_  
Lorna Giles, Village Clerk