

## ORDINANCE O-20-2132

**AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, AMENDING CHAPTER 2, SECTION 2.5 DEFINITIONS, CHAPTER 3, SECTION 3.24.B SCHEDULE OF PERMITTED PRINCIPAL USES AND SECTION 3.24.C SPECIAL LAND USE STANDARDS OF THE LAND DEVELOPMENT CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS,** the City Council of the City of Colleyville approved Ordinance O-00-1214 on April 18, 2000, adopting the Land Development Code; and

**WHEREAS,** the City of Colleyville desires to amend Chapter 2, Section 2.5 – Definitions, Chapter 3, Section 3.24.B – Schedule Of Permitted Principal Uses and Section 3.24.C – Special Land Use Standards of the Land Development Code; and

**WHEREAS,** notice of a public hearing before the City Council was published in a newspaper of general circulation in Colleyville at least 15 days before such hearing.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:**

- Sec. 1. THAT *Chapter 2, Section 2.5 – Definitions, Chapter 3, Section 3.24.B – Schedule Of Permitted Principal Uses and Section 3.24.C – Special Land Use Standards* of the Land Development Code are hereby amended to read as depicted in the attached Exhibit "A".
- Sec. 2. THAT any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Colleyville, and upon conviction shall be punishable by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.
- Sec. 3. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this

ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.

- Sec. 4. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.
- Sec. 5. THAT this ordinance shall take effect immediately from and after its passage.
- Sec. 6. THAT all other provisions of the Land Development Code shall remain in full force and effect, except as amended herein.

**AND IT IS SO ORDERED.**

The first reading and public hearing being conducted on the 4<sup>th</sup> day of August 2020.

The second reading and public hearing being conducted on the 18<sup>th</sup> day of August 2020.

PASSED AND APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND \_\_\_\_ ABSTENTIONS ON THIS THE 18<sup>TH</sup> DAY OF AUGUST 2020.

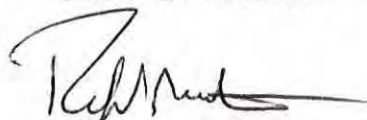
Mayor Richard Newton	<u>AYE</u>	Mayor Pro Tem Bobby Lindamood	<u>AYE</u>
Place 1, Tammy Nakamura	<u>AYE</u>	Place 5, Chuck Kelley	<u>AYE</u>
Place 3, Kathy Wheat	<u>AYE</u>	Place 6, Callie Rigney	<u>AYE</u>
Place 4, George Dodson	<u>AYE</u>		

**ATTEST:**



Christine Loven, TRMC  
City Secretary

**CITY OF COLLEYVILLE**



Richard Newton  
Mayor

**APPROVED AS TO FORM:**



Whitt L. Wyatt  
City Attorney

## **Exhibit "A"**

*{Include amendments to Ch. 2 & Ch. 3 for 'Massage Therapy' uses}*

## DEFINITIONS {New definitions to add to Chapter 2 of the LDC}

**MASSAGE THERAPY, LICENSED.** Any place of business in which massage therapy is practiced by a massage therapist, as defined by State Law. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes but is not limited to effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics. The practice may include the use of oil, salt glows, heat lamps, hot and cold packs, and tub, shower, or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

**MASSAGE THERAPY, UNLICENSED.** Any place of business in which massage therapy is practiced by an unlicensed massage therapist. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes but is not limited to effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics. The practice may include the use of oil, salt glows, heat lamps, hot and cold packs, and tub, shower, or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law. Acupuncture, acupressure, reflexology, and similar unlicensed therapeutic practices are included in this definition. This definition does not include barbers, beauticians, and manicurists who are duly licensed by the state of Texas while engaging in the practice within the scope of their respective licenses, for which this exemption applies solely to the massaging of the neck, face, and/or scalp of the customer of a barber or beautician, or massaging of the forearms, hands, calves, and/or feet of the customer of a licensed manicurist.

**MASSAGE THERAPY ESTABLISHMENT.** An establishment registered with the State Department of Health Services as a massage therapy establishment under Tex. Occupations Code Chapter, 455. Does not include a sexually oriented business as defined in Tex. Local Gov't Code § 243.002.

**REFLEXOLOGY.** Energy work on the hands and feet only which involves holding on the energy points. It does not involve manipulating soft tissue, stroking, rubbing, tapping, stretching, bathing, scrubbing, or the use of oils or lotions. The person performing reflexology cannot touch any other part of the body (e.g. cannot start rubbing the ankles as part of foot reflexology) and cannot represent they are a massage therapist or use any of the other protected terms of the state statute.



**Table 3.24.B- - Schedule of Permitted Principal Uses**

[illegible]

**Table 3.24.B- - Schedule of Permitted Principal Uses**

Table 3.24.B- - Schedule of Permitted Principal Uses																		
Land Use Classification	Residential District										Non-Residential Districts						Special Land Use Standards	Parking Group
	AG	RE	R40	R30	R20	R15	RD	RMF	MH	CPO	CN	CC1	CC2	CC3	ML			
Telecommunications Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	2	21	
Water Pumping Stations	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		24	
Wind Driven Generators	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	14	n.a.	
E. PUBLIC AND INSTITUTIONAL USES																		
Colleges or Universities										S	S	S	S	S	S		12	
Community Centers or Recreation Centers	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P		5	
Government Buildings, Offices and Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		8	
Fire Stations / Police Stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		16	
Golf Courses – Public Owned	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		22	
Government Maintenance Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25	
Libraries										P	P	P	P	P	P		9	
Museums										P	P	P	P	P	P		8	
Post Office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		10	
Parks and Open Space Areas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25	
Public Maintenance and Storage Buildings	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		25	
Private Schools – Elementary and Secondary	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		13	
Private Schools – High School	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		14	
Public Schools – Elementary and Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		13	
Public Schools – High School	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		14	
Religious Institutions	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		18	
F. OFFICE USES																		
Accountant's Offices										P	P	P	P	P	S		8	
Advertising Agencies										P	P	P	P	P	S		8	

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Land Use Classification	Residential District										Non-Residential Districts						Special Land Use Standards	Parking Group
	AG	RE	R40	R30	R20	R15	RD	RMF	MH	CPO	CN	CC1	CC2	CC3	ML			
Attorney Offices											P	P	P	P	P	S		8
Chiropractic Clinics											P	P	P	P	P	S		8
Emergency Clinic (24 hrs.)													S	P	P	S	7	6
Engineering, Architect's, and Surveyor's Offices											P	P	P	P	P	S		8
General Business Offices not elsewhere listed											P	P	P	P	P	S		8
Insurance Agencies											P	P	P	P	P	S		8
Management and Public Relations Services Offices											P	P	P	P	P	S		8
Optometrist Office											P	P	P	P	P	S		8
Psychologist Offices											P	P	P	P	P	S		8
Physician's or Dentist's Offices											P	P	P	P	P	S	4	7
Real Estate Agency Offices											P	P	P	P	P	S		8
Security Broker Offices											P	P	P	P	P	S		8
Telemarketing Offices													P	P	P	S		5
Title Abstract Offices											P	P	P	P	P	S		8
Trade or Business Schools													S	S	S	P		15
Travel Agency / Airline Ticket Offices											P	P	P	P	P	S		8
G. RETAIL AND SERVICE USES																		
Alcoholic Beverage Sales – (Beer and Wine Only) – Off-Premises Consumption													S	S	S		9	n.a.
Alcoholic Beverage Sales – On-premises Consumption													S	S	S		9	n.a.
Package Store Sales – Off-premises Consumption													S	S	S		9	n.a.
Alcohol or Drug Treatment Center											S	S	S	S	S	S		24
Antique Stores													P	P	P			7

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	AG	RE	R40	R30	R20	R15	RD	RMF	MH	CPO	CN	CC1	CC2	CC3	ML			
Apparel and Accessory Stores												P	P	P			7	
Arts and Crafts Stores and Hobby Shops												P	P	P			7	
Bakery Stores												P	P	P			7	
Banks, Credit Unions and Financial Institutions											P	P	P	P			8	
Barber Shops, Beauty Shops and Day Spas											P	P	P	P			7	
Bicycle Shops												P	P	P			7	
Book, Stationary or Greeting Card Shops												P	P	P			7	
Camera or Music Stores												P	P	P			7	
Carnivals and Circuses												S	S				24	
Cemeteries or Mausoleums										S	S	S	S	S	S		24	
Charitable Donation Station												S	S	S			24	
Civic, Social or Fraternal Organizations										S	S	P	P				7	
Convenience Stores with gasoline sales												S	S	S	S		7	
Copy Centers/Print Shops										S	S	P	P	P	P		7	
Dance Studios, Martial Arts Studios, and Cheerleading & Gymnastics Facilities										S	S	P	P	P	P		7	
Day Care Centers										S	S	S	S	S			11	
Department Stores												P	P	P			7	
Dog Boarding with indoor and/or outdoor kennels													S	S	S		8	
Dog Grooming													S	S	S		8	
Dry Cleaner Pick-up Stations											S	P	P	P			7	
Dry Cleaners (up to 5,000 s. f. w/on-site laundry)												P	P	P			7	
Equipment Rental and Leasing Stores														S	P		7	
Florist Shops											P	P	P	P			7	



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Land Use Classification	Residential District										Non-Residential Districts						Special Land Use Standards	Parking Group
	AG	RE	R40	R30	R20	R15	RD	RMF	MH	CPO	CN	CC1	CC2	CC3	ML			
Food Catering													S	S	P		8	
Funeral Homes												S	S	S			24	
Furniture and Appliance Stores												P	P	P			9	
General Retail Store (not listed elsewhere)												S	S	S			7	
Grocery Stores												P	P	P		12	7	
Hardware, electrical & plumbing w/o outside display											P	P	P	P				
Hardware , electrical & plumbing with outside display													S	P	P			
Hospitals												S	S	S			24	
Hotels and Motels												S	P	P			19	
Home Decoration Stores										P	P	P	P	P			7	
Jewelry Stores											P	P	P	P			7	
Locksmiths											S	S	S	S	P		8	
Massage Therapy (Licensed and Unlicensed)												S	S	S		16	7	
Mailing and Shipping Stores											P	P	P	P	P		7	
Meat or Fish Market												P	P	P			7	
Nurseries and Greenhouses with outside display													S	P	P		16	
Pawn Shops															S		7	
Pet Stores												P	P	P			7	
Pharmacy											S	P	P	P			7	
Photography Studios										P	P	P	P	P	P		8	
Purchasing and/or resale of precious metals including jewelry, gem stones, gold, silver, and platinum and not licensed as a Pawn Shop by the State of Texas															S		7	
Restaurants, Cafes and Cafeterias												P	P	P			5	

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[illegible]

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	AG	RE	R40	R30	R20	R15	RD	RMF	MH	CPO	CN	CC1	CC2	CC3	ML			
Airports and Heliports	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		24	
Auto Alarm / Stereo / Window Tinting Stores													S	S	P	10	7	
Auto Lube Shops													S	S	P	10	9	
Automotive and Motor Vehicle Sales													S	S	S	10	8	
Auto Parts and Accessory Stores												P	P	P	P	10	7	
Auto, Truck or Trailer Rental													S	S	S	10	8	
Auto Upholstery Shops														S	P	10	9	
Auto Parking Lots and Garages (free standing)										S	S	S	S	S	S		n.a.	
Auto Repair Shop													S	S	S	10	9	
Boat and Water-craft Sales and Service													S	S	S	10	8	
Bus or Passenger Train Stations												S	S	S	S		24	
Car Wash (self service and automatic)														S	S		9	
Commuter Transit Stations												S	S	S	S		24	
Gasoline Service Stations														S	S	10	7	
LPG / CNG Dispensing Stations														S	S		24	
Motorcycle Sales and Service														S	S	10	8	
Paint and Body Shops														S	S	10	9	
Park and Ride Facilities												S	S	S	S		24	
Railroad or Motor Freight Terminals													S	S	S		24	
Recreational Vehicle Sales and Service														S	S	10	8	
Tire and Battery Stores													S	S	S	10	7	
Truck and Heavy Equipment Sales and Service														S	S	10	8	
Vehicle Storage Yards or Facilities												S	S	S	S		24	

**Table 3.24.B- - Schedule of Permitted Principal Uses**

[illegible]

Wholesale Store/Supply with outdoor storage																<b>S</b>		24
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***{New regulations for Massage Therapy – reviewed as part of the SUP approval}***

**Section 3.24 (C) Schedule of Permitted Uses**

16. Massage Therapy – Any building, room, place, or establishment with a Massage Therapy use shall comply with the following regulations, unless the City Council in approving a Special Use Permit for a Massage Therapy use has imposed other requirements necessary in the particular case to protect the public interests:

- a) Shall be located not less than 300 feet from another Massage Therapy establishment.  
~~Exception: In shopping centers with multiple buildings, at least one (1) Massage Therapy establishment shall be permitted per building regardless of distance.~~
- b) Approval of an application to locate a Massage Therapy establishment shall be deemed a temporary permit. Said permit shall be in effect as long as the current tenant, at the time the approval was granted, operates within the location and may operate in perpetuity until such time as a new Certificate of Occupancy (C/O) is required. A new C/O is required for a change in the existing **occupancy classification** or **use** or **occupant** or **business name** or **business owner**.

Legal-nonconforming Uses or Buildings: Massage therapy businesses legally in existence after the effective adoption date of the applicable amended provisions for massage therapy may operate in perpetuity until such time as a new Certificate of Occupancy (C/O) is required. A new C/O is required for a change in the existing **occupancy classification** or **use** or **occupant** or **business name** or **business owner**. Before issuance of a new Certificate of Occupancy, a Special Use Permit must be approved.

***{Existing section describing the SUP process – for reference}***

**Section 3.25 Special Use Permit**

The purpose of a Special Use Permit is to allow a use not normally allowed in a zoning district, which could be of benefit in a particular case to the general welfare, provided adequate development standards, and special requirements are imposed to protect surrounding uses or to preserve the character of the neighborhood. Upon proper application and payment of the applicable fee, the City Council, after public hearing and proper notice to all parties affected and after recommendation from the Planning and Zoning Commission, may authorize a Special Use Permit for a use not allowed by right in *Section 3.24 “Schedule of Permitted Principal Uses”* in accordance with the following criteria.

1. Procedures – Every Special Use Permit application shall be reviewed and considered using the same procedures for reviewing and considering a rezoning application as specified in *Chapter 1 – General Provisions* of this Land Development Code.
2. Site Plan – The applicant must submit a site plan in the form and manner specified by the Administrative Official, showing the details of the proposed use and its relationship to surrounding properties.
3. Additional Information – The City Council and the Planning and Zoning Commission, in considering and determining its recommendation to the City Council on any request for a Special Use Permit, may require from the applicant plans, information, operating data and expert evaluation concerning the location and function and characteristics of any building, structure or use proposed.
4. Conditions of Approval – The City Council may impose such safeguards, requirements and conditions as it deems are necessary to properly protect any surrounding property, surrounding use, or neighborhood character and to insure the appropriate conduct of the special permitted use, including, without limitation, imposing development standards, requiring public facility improvements and means of ingress and egress of public streets, establishing conditions of operation, establishing time limits, establishing location,

arrangement and construction of any uses or structures, adopting regulations to protect the general welfare and adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view of other undesirable or hazardous conditions. All conditions imposed by the City Council shall be complied with prior to the issuance of a Certificate of Occupancy.

5. Revocation Upon Failure to Develop – A special use permit approved by the Council shall become null and void one year from the date of approval by the City Council unless a building permit or certificate of occupancy, whichever is applicable, has been obtained on the property within said one year period. The City Council may in its adopting ordinance, shorten or lengthen the time in which a building permit or certificate of occupancy must be issued in order to preserve the special use permit. Any Special Use Permit in existence upon the passage of this ordinance shall become null and void one year after the passage of this ordinance, unless a building permit or certificate of occupancy, whichever is applicable, has been issued within said year.

**Exception:** The ordinance authorizing a Special Use Permit may provide for an alternate expiration period.

6. Termination and Abandonment of Use – In the event the building, premises or land uses authorized by a Special Use Permit are terminated or abandoned for a period of six (6) months or longer, the use of the same shall thereafter conform to the regulations applicable to the zoning district, unless a new and separate Special Use Permit is approved for continuation of the use.
7. Modification – No building or premises authorized by a Special Use Permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless an amendment to the Special Use Permit is approved by the City Council using the procedures specified in *Chapter 1 – General Provisions* of this Land Development Code.
8. Violation – It shall be unlawful for property owner or tenant to violate any terms or conditions of the ordinance approving the Special Use Permit.