

VILLAGE BOARD
Committee of the Whole Meeting
November 18, 2019 – 7:00 PM
Lemont Village Hall – Village Board Room
418 Main St., Lemont, IL 60439

AGENDA

- I. Call to Order
- II. Roll Call
- III. Discussion Items
 - A. Recreational Cannabis Unified Development Ordinance Text Amendments Discussion
(Community Development)(Stapleton)(Berry)
 - B. Business Licensing Regulations – Massage Parlors and Business Licenses Discussion
(Community Development)(Stapleton)(Berry)
- IV. Unfinished Business
- V. New Business
- VI. Audience Participation
- VII. Executive Session
- VIII. Adjourn

TO: Committee of the Whole
FROM: Jamie Tate, AICP, Consulting Planner
THROUGH: Jason Berry, AICP, Economic & Community Development Director
SUBJECT: Case 19-19 Recreational Cannabis Unified Development Ordinance (UDO) Text Amendments
DATE: November 18, 2019

SUMMARY/BACKGROUND

Beginning January 1, 2020 adults over the age of 21 will be legally able to purchase cannabis for recreational use from licensed dispensaries across the State of Illinois. The following analysis and text amendments to the UDO are proposed. The considered amendments to the Lemont Unified Development Ordinance are to modify Chapter 17.02 (Definitions), Table 17-06-01 (Permitted and Special Uses in the Zoning Districts), Section 17.06.180 (Medical Cannabis Organizations) and the parking requirements as it relates to recreational or medical cannabis regulations.

The Village of Lemont held a Cannabis Public Workshop on October 8, 2019 to discuss with residents the public legislation approved by the State of Illinois regarding recreational cannabis. Following this workshop, direction was given to regulate adult-use cannabis in a manner consistent with liquor establishments. The following zoning regulations are proposed:

- A dispensary shall not be located within 1,500 feet of the property line of a pre-existing dispensary or 500 feet of the property line of private or public school grounds, or within 100 feet of a child care center not in a residence, a public park, a library, or a games arcade establishment to which admission is not restricted to persons 21 years or older.
- Cannabis dispensary as a permitted use in the B-3, Arterial Commercial zoning district and a special use in the B-1, Office/Retail Transitional zoning district.
- Craft Grower as a special use in the B-3 zoning district and in the M-1, M-2 and M-3 Manufacturing districts as a special use.
- Cannabis infusers and transporting organizations as a special use in the M-1, M-2, and M-3 Manufacturing districts.
- Add and modify definitions as they relate to cannabis derived from the State cannabis legislation.
- Add parking requirements for cannabis industry businesses.

Additional regulations outside of the recommended UDO zoning changes will be proposed for the Business License code; such as number of licenses, penalties, etc. The proposed zoning modifications to the UDO are explored and discussed in Attachment 1: Staff Analysis.

ANALYSIS

Consistency with Village Policy

Lemont 2030 Comprehensive Plan.

While the Comprehensive Plan does not address the cannabis industry or dispensaries, it does direct Staff and the Village Board to explore changes to the Unified Development Ordinance from time to time due to modernization and changes in land use trends. The State legislation to allow recreational cannabis is a modernization and change in the land use that was not anticipated but must be explored in the Village. Further Comprehensive Plan discussion is in Attachment 1: Staff Analysis.

Planning & Zoning Commission.

The PZC held a public hearing on November 6, 2019 to discuss the proposed zoning amendments to the UDO. There was concern amongst the commissioners regarding allowing the use by right without the special use process within any district in the Village, specifically the B-3 District. Staff explained through the reasoning that by the State allowing the sale of cannabis has created a new commercial use within Illinois and the proposal to allow the use by right in the B-3 was treating cannabis dispensaries as a commercial use, traditionally allowed by right in B-3.

Five members of the audience spoke at the public hearing. The first speaker was a potential dispensary owner that spoke in favor of the proposed UDO amendments. The second speaker is a resident of Lemont that has concern about the effects of cannabis. He compared the current situation to the State of Colorado and the experiences of his friend. He said the state is not making money and now people are smoking cannabis everywhere and he does not want that in his town or near his family. Another speaker stated that the Village could opt out and they listed other municipalities that have made this choice. The Village Attorney and Planning Chairman reminded the audience that the hearing was for zoning changes and not Village policy regarding cannabis. The following speaker asked the Commission to not move forward with the zoning as expressed. She does not want to see dispensaries in the town. She is concerned that the State will keep adding more licenses. The last speaker stated this is a very big and serious decision. She located in Lemont because it is a safe community. She was not able to make the outreach meeting but thinks the decision should be made by the residents rather than the few people on the Board.



After the public hearing was closed, the PZC further discussed the UDO zoning changes in regards to recreational cannabis. There was concern about how exact a measurement could be taken between zoning lots while using the parameters proposed in the zoning changes. Staff clarified that the measurement is taken from the property lines. The Commission applauded the Village for holding the outreach meeting on October 8th, but still struggled to see why the cannabis dispensary use would not be a special use in B-3. The definition of a special use was read to the audience and they feel the situation is exactly what the special use language is speaking to. After discussion, there was a consensus by the Commission to further restrict the cannabis dispensary use through the special use process in the B-3 District and not allow it at all in the B-1 Zoning district.

The PZC recommended approval (5-1) of the proposed amendments as proposed by staff with a modification:

- The cannabis dispensary use will be a special use in the B-3 zoning district and not allowed in the B-1 zoning district.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments.

BOARD ACTION REQUESTED

This item is meant for discussion.

ATTACHMENTS

1. Staff analysis from PZC report
2. PZC Hearing Minutes Excerpt



Attachment 1 - Staff Analysis – Recreational Cannabis

Consistency with the Lemont 2030 Comprehensive Plan. While the Comprehensive Plan does not address the cannabis industry or dispensaries, it does direct Staff and the Village Board to explore changes to the Unified Development Ordinance from time to time due to modernization and changes in land use trends. The following are Guiding Principles from the Economic Prosperity section that could be applicable in this situation:

- Village codes and permitting processes are safeguards to public health and safety; they should also be tools for promoting economic growth and development.
- Proactive approaches to business recruitment and retention are needed to overcome challenges to achieving our vision for economic prosperity.

Also within the Economic Prosperity section, there is discussion surrounding “Economic Activity Centers” and certain locations throughout the Village. Economic activity centers are existing or *potential hubs* of business activity. Since the cannabis industry was not envisioned at the time of the creation of the plan, they could be categorized into an “economic activity center” today.

Proposed Modifications to the UDO. Words in **red** or specifically called out to be added are proposed additions to the text of the UDO and words ~~stricken~~ are proposed deletions. New UDO code sections are not shown in red rather stated prior to the text that the entire section is new to the UDO. The amendments are organized by topic, rather than by chapter, to facilitate discussion.

The following Definitions are proposed to be added to Chapter 17.02. They are derived from IL Public Act 101-0027 also known as HB 1438 “Cannabis Regulation and Tax Act”. The definitions should be added in alphabetical order. Staff suggests placing a disclaimer somewhere in the definitions for cannabis type uses that if a definition is not found in the Village UDO, reference the IL State Act for further definitions.

17.02 Definitions

CANNABIS Marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of

all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

CANNABIS BUSINESS ESTABLISHMENT A cultivation center, craft grower, processing organization, dispensing organization, or transporting organization.

CANNABIS DISPENSARY or DISPENSING ORGANIZATION A facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under this Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Act, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

CANNABIS-INFUSED PRODUCT A beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

CRAFT GROWER A facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a

separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

CULTIVATION CENTER ~~A facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.~~ A facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by this Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

FLOWERING STAGE The stage of cultivation where and when a cannabis plant is cultivated to produce plant material for cannabis products. This includes mature plants as follows:

1. If greater than 2 stigmas are visible at each internode of the plant; or
2. If the cannabis plant is in an area that has been intentionally deprived of light for a period of time intended to produce flower buds and induce maturation, from the moment the light deprivation began through the remainder of the marijuana plant growth cycle.

INFUSER ORGANIZATION or CANNABIS INFUSER A facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

TRANSPORTING ORGANIZATION or TRANSPORTER An organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

The following definitions should be removed:

~~**MEDICAL CANNABIS DISPENSING ORGANIZATION** — A facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. Also referred to as a "dispensing organization," or "dispensary organization."~~

~~MEDICAL CANNABIS ORGANIZATION — A Medical Cannabis Dispensing Organization or Cultivation Center.~~

The following is from the Use Regulations section of the UDO (17.06). The succeeding changes are proposed to Table 17-06-01 Permitted and Special Uses in the Zoning Districts:

- **ADD: “Cannabis Dispensary”** under the COMMERCIAL portion of the use table. It will be an allowed use “P” in B-3 and a special use in B-1 “S”. The use listed in the table shall read “Cannabis Dispensary, consistent with the requirements of 17.06.180 of this ordinance.”; and
- **ADD: “Craft Grower”** as a special use in the B-3 District, M-1, M-2 and M-3 Manufacturing Districts; and
- **ADD: “Cannabis Infusers”** as a special use in the M-1, M-2 and M-3 Manufacturing Districts; and
- **ADD: “Transporting Organizations”** as a special use in the M-1, M-2, and M-3 Manufacturing Districts; and
- **REMOVE:** “Medical Cannabis Dispensing Organization” entirely from the Use Table 17-06-01.

The following section is part of the Use Regulation Chapter 17.06. It was created to regulate medical cannabis organizations, but now it is proposed to regulate all cannabis regulations, either medical or recreational. It will be referenced in the use table.

17.06.180 MEDICAL CANNABIS ORGANIZATIONS (~~O-10-14~~) (~~O-12-16~~)

Cultivation centers and registered ~~medical~~ cannabis dispensing organizations, together known as a “~~Medical Cannabis Organizations~~” for the purposes of this section, shall be regulated as follows:

A. **Location Restrictions.** ~~Medical Cannabis Organizations may only be considered a special use within the M-4 District provided that~~ **must meet the following:**

1. ~~A cultivation center shall not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned~~

~~for residential use; A dispensary shall not be located within 1,500 feet of the property line of a pre-existing dispensary or 500 feet of the property line of private or public school grounds, or within 100 feet of a child care center not in a residence, a public park, a library, or a games arcade establishment to which admission is not restricted to persons 21 years or older.~~

~~2. A dispensing organization shall not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility, and may not be located in a house, apartment, condominium, or an area zoned for residential use;~~

~~3. Medical Cannabis Organizations shall not be located within 1,000 feet of a property boundary of any cemetery, public park, forest preserve, public housing, or place of worship; and~~

~~4. Medical Cannabis Organizations shall not be located within 500 feet of the boundary of any parcel in the DD District.~~

B. Method of Measurement. Measurement of the location restrictions described in Paragraph A of this section shall be made in a straight line, without regard to intervening structures or objects, from the nearest lot line of the lot where the ~~medical~~ cannabis organization is located, to the nearest lot line of the other specified use.

C. Compliance with State Requirements. In addition to the regulations set forth in the Lemont, Illinois Municipal Code, all Medical Cannabis Organizations shall comply with all regulations provided in the Compassionate Use of Medical Cannabis Pilot Program Act, as enacted by the State of Illinois, effective January 1, 2014, as may be amended from time to time (hereinafter referred to as the “Act”) and any administrative rules promulgated and duly adopted by the various State of Illinois departments authorized to enforce the Act. **All Recreational Cannabis Organizations shall comply with all regulations provided in the ‘Cannabis Regulation and Tax Act’, Public Act 101-0027, as enacted by the State of Illinois, effective January 1, 2020, as may be amended from time to time.**

D. Licensure. The use must have all required State of Illinois and Village of Lemont licenses.

- E. **Lighting.** All site lighting and inside the dispensary building must be provided and kept in good working order and of sufficient wattage for security cameras and the safety of customers and employees.
- F. **Visibility.** The parking facility must be visible from a public street.
- G. **Vehicle Access.** The parking facilities must be access directly from a public street.
- H. **Location of sales.** All product storage, display and sales must be conducted inside an enclosed building. Drive-through facilities are prohibited.
- I. **Combined uses.** Other uses that are permitted or special uses in the district in which the dispensary is located may be combined with a cannabis dispensary provided that they meet off-street parking requirements and all other code requirements for each use.

The following additions to the UDO are proposed to address parking at cannabis dispensaries or organizations. Cannabis dispensaries are similar to a retail use rather than a tavern or bar, as consumption will not be onsite. Staff is proposing the same calculation for cannabis dispensaries as a retail establishment and per special use for craft growers, cannabis infusers, and transporting organizations.

Chapter 17.10 OFF-STREET PARKING AND LOADING

Add the following use to Table 17-10-01 Schedule of Off-Street Parking under the COMMERCIAL headline in alphabetical order:

Cannabis Dispensary	1 per 250 sf of GFA
Craft Grower	Per special use approval

Add the following uses to Tale 17-10-01 Schedule of Off-Street Parking under the INDUSTRIAL headline in alphabetical order:

Cannabis Infusers	Per special use approval
Transporting Organization	Per special use approval

Village of Lemont
Planning and Zoning Commission
Regular Meeting of November 6, 2019

A regular meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, November 6, 2019 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

I. CALL TO ORDER

A. Pledge of Allegiance

Chairman Studebaker called the meeting to order at 6:35 p.m. He then led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Carmody, McGleam, O'Connor, Pawlak, Zolecki, Studebaker

Absent: Cunningham

Community Development Director Jason Berry, Community Development Manager Mark Herman, Consulting Planner Jamie Tate, Village Attorney Mike Stillman and Village Trustee Ron Stapleton were also present.

C. Approval of Minutes – October 2, 2019 Meeting

Commissioner McGleam made a motion, seconded by Commissioner O'Connor to approve the minutes from the October 2, 2019 regular meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Chairman Studebaker asked anyone in the audience who was planning on speaking in regards to any of the public hearings this evening to please stand and raise his/her right hand. He then administered the oath.

III. PUBLIC HEARINGS

A. 19-16 – 541 LEDOCHOWSKI STREET VARIATION

**B. 19-17 – ROUTE 83 AND MAIN STREET UNIFIED DEVELOPMENT
ORDINANCE TEXT AND MAP AMENDMENTS**

**C. 19-18 – DOWNTOWN DISTRICT (DD) UNIFIED DEVELOPMENT
ORDINANCE TEXT AMENDMENTS**

**D. 19-19 RECREATIONAL CANNABIS UNIFIED DEVELOPMENT
ORDINANCE TEXT AMENDMENTS**

Chairman Studebaker called for a motion to open the public hearing for Case 19-19.

Commissioner O'Connor made a motion, seconded by Commissioner Pawlak to open the public hearing for Case 19-19. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Staff Presentation

Mrs. Tate said the purpose of the hearing is to consider amendments to the UDO to modify Chapter 17.02 which are definitions, and also the current code that addresses medical cannabis organizations along with any other section that relates to this. Starting January 1, 2020 adults over the age of 21 will legally be able to purchase cannabis for recreational use from licensed dispensaries across the State of Illinois. The following analysis and text amendments to the UDO are proposed along with other regulations outside the review of the PZC.

Michael Stillman, Village Attorney, stated the cannabis act goes into effect January 1, 2020. The state will allow cannabis everywhere and they leave it up to the municipalities to determine where it can be allowed. If nothing gets done then the cannabis can be allowed anywhere. It is in front of you today only for zoning purposes, so if the Village Board does approve it then it will be determined where it will go. There are other aspects of cannabis that if it is allowed that the Board will have to determine, such as the number of licenses.

Chairman Studebaker asked the Village Attorney to explain what will happen if they don't act on this. He asked to explain how this is similar to when liquor was made legal and liquor licenses are issued.

Mr. Stillman said there is a liquor Commission and there are a certain number of liquor licenses that can be issued. If it capped out then it is not allowed unless the Village Board decides. The licensing is not presented this evening, but that is how most likely it will occur. One of the requirements is that it must be at least 500 feet from a school. A liquor establishment is only 100 feet from a school. There are several different types of classes for cannabis.

Commissioner Zolecki asked if they can talk about the public workshop that happened on October 8, 2019.

Mr. Stillman stated there was an informal community workshop that was held on October 8th. Staff gathered the public feedback from that workshop to determine what zoning if it were allowed. He stressed it has not been approved, but this is just to determine the zoning if it is allowed.

Commissioner Zolecki asked how is the distance measured. He asked if it is measured to the property line or the actual building itself.

Mrs. Tate said it is the property line.

Commissioner Zolecki asked why it is a special use in B-1 Zoning but as-of-right in the B-3 Zoning.

Mrs. Tate stated the B-1 is more of your neighborhood commercial zoning and the B-3 is more of your arterial or high major street. She then showed on the overhead where the B-1 and B-3 zoning is located.

Commissioner Zolecki said based on the use why isn't it a special use in both zoning districts. The main thoroughfare of State Street and 127th has many schools and parks so it should be a special use so they have more control over the situation. One location he talked about was Lemon Tree which is zoned B-3 but is very close to Oakwood/River Valley School.

Mr. Berry stated one of the discussions that has been happening not only here but in other municipalities is the licensing part. If there is a Commission for licensing then they could determine that there are not appropriate places for licenses.

Commissioner Zolecki said it should not be as of right.

Mrs. Tate stated they are proposing that a dispensary shall not be located within 1,500 feet of the property line of a pre-existing dispensary or 500 feet of the property line of private or public school grounds, or within 100 feet of a child care center not in a residence, a public park, a library or a game arcade establishment. The 1,500 feet is within the State code. Staff did look at what other communities are doing. In the use table it talks about medical dispensaries already so they would have to get rid of the word medical and just use dispensary. There are other restrictions that would need to be added like lighting, vehicle access, parking, and security cameras are just a few. They had to add several definitions. Craft Grower would be added as a special use in the B-3 zoning district and in the M-1, M-2, and M-3 manufacturing districts as a special use. Cannabis infusers and transporting organizations would be proposed as a special use in the M-1, M-2, and M-3 manufacturing districts.

All the definitions are from the State code. Staff is proposing to put a clause in the UDO stating that if something is not addressed in the UDO it would be referenced back to the State UDO. There will also be a business license clause added. In regards to parking, it will be similar to retail sales and service. There is no consumption on site so you don't want to regulate it like a tavern. For special uses it will be evaluated and determined at that time.

Mrs. Tate said the Comprehensive Plan did not take into consideration anything about cannabis. It does talk about activity centers and this could possibly be an activity center. It does state that staff does need to review the code for any external changes and modernization.

Mr. Berry stated the State allowing the sale has created a commercial use. There is retail sales tax that gets paid to the State which gets paid to the Village. When talking to the commercial broker community they are treating this very much as a commercial use. That is some of the thinking behind the permitted versus the special use.

Commissioner Zolecki said it could be regulated through a special use. He feels if the State is going to drop this on the Village then they should have some control over it.

Commissioner Pawlak asked what is the time line for the number of licenses and the licensing ordinance.

Mr. Stillman stated there are certain number of licenses statewide. Starting in January there will only be 110 licenses allowed statewide. Only operators that have medical uses can have a dispensary and then it will move up from there. He thinks eventually the goal will be to have over 500 statewide. If the Village accepts the ordinance then there will be a licensing ordinance as well. Most Village's limit the amount of licenses as well. There will not be one municipality, besides Chicago, that will have more than one license. Consumption will not be allowed on premise and it is not allowed in public either. If the Village Board does not opt out or create the ordinance then it can be put anywhere. The ordinance that they are presenting is the strictest he has seen from any Village.

Chairman Studebaker asked if they should be looking at a different zoning district.

Mr. Berry said medical marijuana is a permitted special use in the Village in an M-3 and M-4 zoning district. Adult uses are typically regulated that way as well. It allows them on paper but not in practice. This has been more of a question of how you regulate it as a commercial use.

Chairman Studebaker asked if there were any further questions or comments for staff from the Commission. None responded.

Public Comment

Edward Gal stated he is interested in a dispensary here in Illinois. He gave each of the Commissioners a rendering of what a dispensary would look like. Applications are due January 2, 2020 and winners will be announced in May. There are 75 licenses being issued if people meet the requirements. The region that Lemont is in there will be 47 licenses issued. He has been in contact with Blue Stone for the corner of Route 83 and Main Street for a potential location for dispensary if the Village is going to allow it and not opt out. He suggests that the Village opt out of on-site use and if they don't they will automatically be opted in to it.

Vince Marzano said he has a good friend that lives in Colorado that has shared some information on his experience with recreational marijuana. His friend was told that the town would make all kinds of money from the taxes, but instead they lost money. The only people making money is investors. The most important problem is there is no way to measure the content in the human body. It started out with just a couple of dispensaries and now they are all over. People are smoking it everywhere and not just in their private home. According to his friend people were renting homes, growing plants and selling the marijuana. He does not want to see this in his town and being anywhere near his family or kids.

Mr. Stillman stated this hearing is about the zoning. The Board of Trustees will make the decision in regards to whether the Village is opting in or out.

Ms. Kovacik said many other Planning and Zoning Boards have opted out. She listed all the other Villages.

Chairman Studebaker stated it is not the Planning and Zoning Boards but rather the Village Board.

Michelle Bernard said she has lived in the Village for seven years and loves this town. She will try to limit her questions in regards to just zoning. She heard a lot of other context in preparation for this discussion which did not have to do with zoning, which is legal whether the public likes it or not. Her question is if the Village refuses to do anything then it is allowing their acceptance, but can this Commission not allow dispensaries in the town.

Mr. Stillman stated they cannot recommend to opt out. This Commission can only recommend that they don't allow the zoning or make modifications.

Ms. Bernard said she recommends to not move forward with the zoning as expressed. She does not want to see dispensaries in the town. The decisions that this Commission recommends today will have an impact in the future and she hopes that they will consider this. She asked if over time if the number of licenses can go higher than 500.

Mr. Stillman stated he thinks the 500 licenses will be over 5 years span. That can change, but whether the market will allow it to be more than that, that will have to be seen.

Ms. Bernard said ten years ago none of them probably thought they would be having these discussions. This is something to consider when they are voting this evening.

Gayle McCaugherty stated she has been a resident for 11 years. This decision is a very big and serious decision and should not be determined by a few people on a Board but rather by the residents in the community. Unfortunately, she had missed the meeting in October and did not know about the meeting this evening until last minute. She moved here from Darien because it is a safe community.

Chairman Studebaker explained to the audience that they can express their concerns at the Village Board. He then asked if there was anyone else in the audience that wanted to speak in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 19-19. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Discussion

Chairman Studebaker said he would like to make sure the recommendation is the most restrictive policy they can put together.

Commissioner McGleam asked if during the workshop was there any talk about prohibiting it in the DD.

Mrs. Tate stated there is no B-3 in the DD.

Commissioner McGleam asked if they made it a special use in the B-3, then any proposed dispensary would have to come before the PZC and the Village Board.

Mr. Herman said yes it would come before both boards.

Mr. Berry stated as long as it meets the distance requirements. The Lemont Plaza does not meet the distance requirements.

Commissioner Zolecki asked if they tested all the B-3 zoning.

Mr. Herman said yes.

Commissioner Zolecki asked how does it work when there are multiple parcels or a commercial development with many store fronts.

Mr. Berry stated they would consider it a zoning lot, so it would be any property line within that development.

Commissioner Zolecki said he applauds the Village for holding the meeting on October 8th. Obviously there was input from there that is embedded in here like distances. He struggles to understand why they wouldn't put this as a special use in B-3. It would give an assurance to these distance games when there could be something out there. He then read the definition for a special use. He stated this situation is exactly what it is talking about. If they are only talking about one or two licenses then this should not burden the Village or staff to hear a special use.

All the Commissioners agreed.

Commissioner Zolecki stated there are not many properties that are zoned B-1.

Commissioner Pawlak said he would not want to see one of these facilities near a neighborhood and would recommend that it is only in B-3.

Chairman Studebaker asked if there were any further questions or comments from the Commission. None responded.

Plan Commission Recommendation

Chairman Studebaker then called for a motion for recommendation.

Commissioner O'Connor made a motion, seconded by Commissioner McGleam to recommend to the Mayor and Board of Trustees approval of Case 19-19 – Recreational Cannabis Unified Development Ordinance Text Amendments with the following conditions:

1. Cannabis dispensaries as a special use in the B-3 Zoning District.
2. Cannabis dispensaries be stricken in the B-1 Zoning District.

A roll call vote was taken:

Ayes: O'Connor, McGleam, Pawlak, Carmody, Zolecki

Nays: Studebaker

Motion passed

Findings of Fact

Commissioner McGleam made a motion, seconded by Commissioner Carmody to authorize the Chairman to approve the Findings of Fact for Case 19-19 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

TO: Mayor and Village Board
FROM: George J. Schafer, Village Administrator

SUBJECT: Business License Regulations - Massage Parlors and Business Licenses

DATE: November 15, 2019

SUMMARY/BACKGROUND

During the current year's budget development process, the Village made changes to the business license fee structure, to account for size of principal business establishment. The new business license renewals have gone out to the business community to reflect these changes. The board may also want to evaluate industry specific licenses due to issues in their industry.

Dependent on the zoning discussion on recreational cannabis, the board should discuss and give staff guidance on business license regulations for cannabis. Staff and legal will lead a discussion to receive this feedback. In addition, due to recent issues with massage parlors in the Village, additional licensing guidelines may be warranted. Attached to this memo is a draft ordinance to regulate massage establishments specifically.

ATTACHMENTS

1. Massage Parlor

SPECIFIC VILLAGE BOARD ACTION REQUIRED

The item is being presented for discussion purposes only.

VILLAGE OF LEMONT

**ORDINANCE
NUMBER O-__-19**

**AN ORDINANCE AMENDING THE VILLAGE OF LEMONT CODE OF
ORDINANCES, CHAPTER 5, BUSINESS LICENSING AND REGISTRATION, TO ADD
A NEW ARTICLE 03 MASSAGE ESTABLISHMENTS**

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AN ORDINANCE AMENDING THE VILLAGE OF LEMONT CODE OF ORDINANCES, CHAPTER XX, BUSINESS LICENSING AND REGISTRATION, TO ADD A NEW ARTICLE XX MASSAGE ESTABLISHMENTS

WHEREAS the Village of Lemont, Counties of Cook, Will and DuPage, Illinois, (“the Village”) is a municipality in the state of Illinois with full powers to enact ordinances and adopt resolutions for the benefit of the residents of the Village; and

WHEREAS, the Village has authority and power to regulate for the protection of the public health and welfare; and

WHEREAS, the President and Board of Trustees of the Village of Lemont (the “Corporate Authorities”) may amend the text of the Municipal Code of the Village from time to time to meet the changing needs of the Village; and

WHEREAS, though massage therapists are licensed by the Illinois Department of Financial and Professional Regulations pursuant to the Massage Licensing Act, 225 ILCS 57/1, the Illinois Department of Financial and Professional Regulations does not regulate massage establishments; and

WHEREAS, the licensing and regulation of massage establishments is a matter pertaining to public health, safety, morals and welfare and is within the government and affairs of the Village of Lemont.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lemont, Counties of Cook, Will and DuPage, Illinois, as follows:

SECTION 1: The Lemont Code of Ordinances, Chapter 5, “Business Licensing and Regulation” is hereby amended by adding Article 03 entitled “Massage Establishments”, which shall read as follows:

5.03.010 DEFINITIONS

For the purpose of this article, 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 it is a corporation or limited liability company, the term shall include any stockholder holding more than five percent (5%) of the stock, and each officer and director. If it is a partnership, it shall include each partner, including each limited partner. It shall also include the manager or the other person principally in charge of the operation of the business.

EMPLOYEE: Any person over eighteen (18) years of age, other than a massage therapist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

LICENSE: 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 body with the hands, elbows, feet, 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 ESTABLISHMENT: Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on, or permits to be engaged in or carried on, a business of providing massages.

MASSAGE THERAPIST: Any person who, for any consideration or gratuity whatsoever, engages in the practice of massage and is licensed by the State of Illinois.

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

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

SEXUAL MISCONDUCT: Any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.

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

STATE LICENSE: A valid license issued pursuant to the Illinois Massage Licensing Act, 225 Illinois Compiled Statutes 57/1 et seq.

5.03.020: MESSAGE BUSINESS LICENSE REQUIRED:

- A. Massage Business license Required; Exceptions: No person or entity shall operate a massage establishment unless that person has a valid massage establishment business license issued by the Village pursuant to the provisions of this article for each and every separate office or place of business in the Village. However, where individuals possessing the license required in subsection B of this section, perform massage in their own homes or as an outcall massage service without a massage establishment in Lemont, no massage

business license shall be required for that home. When a licensee performs a massage in his or her own home, the requirements of the Lemont zoning code pertaining to home occupations shall apply. All massage establishments within the village shall be licenses on or before September 1, 2018, which licenses shall expire on December 31, 2019. Thereafter, all licenses shall be due on or before January 1 of each year and will terminate on December 21st following such issuance, unless sooner suspended or revoked.

- B. State License Required: No person shall engage in massage for compensation or other consideration, unless the person has a valid state license issues pursuant to the Massage Licensing Act, 225 ILCS 57/1 et seq.

5.03.030: APPLICATION FOR MASSAGE ESTABLISHMENT BUSINESS LICENSE:

- A. Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application, under oath, with the Village of Lemont upon a form provided by the Village Clerk and pay a nonrefundable annual license fee, in the amount set forth in Section 10-1-19 of this Chapter. Copies of the massage establishment business license application shall be forwarded to the Director of Community Development. The Director of Community Development shall, within thirty (30) days of receiving a complete application, cause an inspection of the premises proposed to be operated as a massage establishment and upon inspection, shall prepare a written report concerning compliance with the applicable regulations. The complete application, once accepted, shall also be referred to the Police Department will perform the required criminal record check. Background investigations shall require the submission of fingerprints for the owner/applicant/s and the manager/s. The cost of the criminal record check and cost of fingerprint submissions shall be borne by the applicant.
- B. Each application shall contain the following information:
 - 1. The name under which the business will be conducted and a complete statement of the service or services to be provided.
 - 2. The location, mailing address and all telephone numbers where the business is to be conducted. If the premises is leased, the name and address of the owner of the premises, and if the premises is held in a trust, the names and addresses all owners of the beneficial interest in the trust. A copy of the lease for the premises shall also be provided.
 - 3. Federal employer identification number (FEIN) and state of Illinois business tax number (IBT)
 - 4. The name and residences address of each applicant (all provisions which refer to applicant include an applicant which may be a corporation, limited liability company or partnership).
 - a. If applicant is a corporation or limited liability company, the term applicant includes each of the officers, directors, member or manager of the corporation or company

and of each stockholder owning more than five percent (5%) of the stock of the corporation or company.

- b. If applicant is a partnership, the term applicant includes each of the partners including limited partners.
 - c. If the applicant is a corporation, Limited Liability Company or partnership, the business address of the partnership, if different from the address of the massage establishment shall be provided.
5. The two (2) previous address immediately prior to the present address of each applicant.
 6. Proof that each applicant is at least eighteen (18) years of age.
 7. Copy of a government issued photo identification, such as a driver's license or State of Illinois Identification for each applicant.
 8. One portrait photograph of each applicant at least two inches by two inches (2" x 2") and 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, the chief of police shall have the right to require fingerprints of any and all officers, shareholders, directors, partners, members, managers or agents of the entity along with the fee for each.
 9. Business, occupation or employment of each applicant for the three (3) years immediately preceding the date of application.
 10. The massage or similar business license history of the applicant; whether such person, in 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.
 11. All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted for each applicant.
 12. The name and residence address of each person who shall be employed as massage therapists, managers, assistant managers or any other persons principally in charge of the operation of the business, whether such persons are employees or independent contractors. Each application shall be accompanied by a copy of the state license issued by the state of Illinois authorizing the practice of massage therapy under the Massage Licensing Act, 225 ILCS 57/1 et seq. Each application shall also be accompanied by a copy of a photo identification card such as an Illinois driver's license or Illinois identification card for each massage therapist, manager, assistant manager or any other person principally in charge of the operation of the business. The business license holder shall provide the information required herein for every new employee or independent

contractor employed, to the Village Clerk, at least ten (10) business days prior to the person beginning work at the premises.

13. The name and address of any other business owned or operated by any person whose name is required to be given as an applicant as provided in subsection B.4 of this section.
14. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
15. 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 qualifications of the applicant for the permit. Authorization for the Village or its agents to inspect the premises.
16. Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.

- C. Upon the completion of the above provided form and the furnishing of all foregoing information, the Village Clerk shall accept the completed 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.

5.03.040: ISSUANCE OF LICENSE FOR A MASSAGE ESTABLISHMENT:

The Village of Lemont shall issue a license for a massage establishment if all requirements for a massage establishment described in this article are met unless it finds one or more of the following:

- A. The license application is incomplete, is missing required documentation, or the correct license fee or other fees or fines owed to the Village of Lemont have not been tendered to the Village.
- 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, zoning, and health regulations.
- C. The applicant or employees, other than massage therapists, have been found guilty of any of the following offenses or found guilty of an offense outside the state of Illinois that would have constituted any of the following offenses if committed within the state of Illinois:
 1. An offense involving the use of forces and violence upon the person of another that amounts to a felony.
 2. 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.

3. Any offense involving possession or delivery of a controlled substance or other illegal drug offenses that amounts to a felony.
 4. 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.
 5. Any crime of moral turpitude. The Village of Lemont may issue a license to any person found guilty of (or whose employees, other than massage therapists, have been found guilty of) any of the crime described in subsection C.1 through C.4 of this section only if it determines that such finding of guilty occurred more than 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. Further, for the purpose of this section, any finding of guilty, including an order resulting in supervision, shall apply.
- D. Any applicant has knowingly made any false, misleading or fraudulent statement of fact or failed to disclose or attempted to conceal required information or a fact in the license application or in any other documents required by the Village.
 - E. Any applicant 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 or local agency within five (5) years prior to the date of the application.
 - F. Any applicant is not 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.
 - H. The business is licenses as a sexually oriented business as defined in 10-10-3 DEFINITION.

5.03.050: APPROVAL OR DENIAL OF APPLICATION:

The Village of Lemont, through the Village Clerk or designee shall act to approve or deny an application for a license under this article within a reasonable period of time and in no event shall the Village of Lemont act to approve or deny said license later than ninety (90) days from the date that a full and complete application was filed with the Village.

5.03.060: POSTING OF LICENSE; PHOTO IDENTIFICATION CARD:

- A. The state licenses issues to each massage therapist shall be posted in the reception area for patrons, or in the therapist's work area shall be available for immediate inspection.
- B. The Village's Paper Massage Business License shall be posted in a publicly viewable area and the Village's Sticker Massage Business License shall be posted in a front window.

- C. In the event of the loss or destruction of a license issued pursuant to this article, upon written application to the Office of the Clerk, and payment of a fee of \$5, a duplicate license will be issued, noting it is a reissued license.
- D. Every massage therapist shall possess a government issued photo identification card while on the licensed premises and produce such identification card upon request and any representative of this Village of Lemont.
- E. 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.
- F. Every manager, assistant manager or other person principally in charge of the operation of the business shall possess a government issued photo identification card while on the licensed premises and produce such identification card upon request of any representative of the Village of Lemont.

5.03.070: REGISTER OF EMPLOYEES:

The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time, including massage therapists, along with their current photographs and a copy of their licenses. Such register shall be available at the massage establishment to representatives of the Village of Lemont during regular business hours.

5.03.080: REVOCATION OR SUSPENSION OF LICENSE:

- A. Any license issued for a massage establishment may be revoked or suspended by the Village of Lemont after notice and a hearing by the Mayor or designee, for good cause, or in any case where any of the provisions of this article are violated or where any employee of the licensee, including a massage therapist, is engaged in any conduct which violates any of the state or local laws or regulations at licensee's place of business. Such license may also be revoked or suspended by the Village of Lemont after notice and hearing, upon the recommendations of the inspector that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene.
- B. Notice of the hearing for revocation of a license or permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail (return receipt requested) to the licensee or permittee at his or her last known address, at least three days prior to the date set for the hearing. Notice will also be posted on a public bulletin board and the Village website no less than 48 hours before the hearing. A stenographic or electronically recorded record of the hearing shall be kept. The Village shall pay the cost of attendance fees of the reporter and the costs of the transcript, if such transcript shall be ordered by the Village. The licensee or permittee shall pay the cost of any transcript ordered by him or her.
- C. Within a reasonable time after the conclusion of the hearing, but not later than 30 days after

such conclusion, the Mayor shall file a written decision in which he or she has summarized the evidence and has stated the reasons for his or her decision. 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 twelve (12) months.

- D. No person shall destroy, obliterate, take, remove or carry away without the consent of the owner any license, certificate, plate or sticker which has been issued by the Village, except when such license, certificate, plate or sticker has been discontinued or the licensed premises have been abandoned. Nothing herein shall prevent the Mayor or his or her duly authorized representative from removing any license, certificate, plate or sticker from the possession of a former licensee, his or her premises, any vehicle or any machine when such license has been revoked under the provisions of this code.

5.03.090: REVOCATION OF MASSAGE THERAPIST LICENSE:

A massage therapist license issued by the state may be revoked or suspended 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 department of professional regulation.

5.03.100: FACILITY REQUIREMENTS:

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 minimum number of plumbing fixtures shall be provided and maintained as required by code.
- B. The establishment will comply with all building, property maintenance, and fire codes.

5.03.010: OPERATING REQUIREMENTS:

- A. Prices for all services shall be prominently posted in the reception area in a location available to all prospective customers on a placard of at least 8 inches by 10 inches.
- B. All employees, including massage therapists, shall wear nontransparent outer garments.
- C. The sexual or genital areas of patrons must be covered with nontransparent towels, cloths, or undergarments when in the presence of an employee or massage therapist.
- D. 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.
- E. Any reception or waiting area shall be open to the public and visible from outside of the immediate entrance of establishment, 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. No massage establishment shall be equipped with tinted or one-way glass in any room or office. No doors to corridors or individual massage rooms shall be equipped with a lock or shall be obstructed.

- F. No massage establishment granted a license under the provisions of this article 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.
- G. No massage establishment granted a license under the provisions of this article 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 article, or which would suggest that employees or massage therapists are dressed in any manner other than that permitted by this article.
- H. No advertising will suggest or describe the physical characteristics of employees or massage therapists.
- I. No person shall be denied a massage or access to the massage establishment because of gender.
- J. No massage establishment or employee of any massage establishment may display or offer to others any novelties, instruments, devices, or paraphernalia that are designed primarily for use in connection with specified sexual activities or that give the appearance of or simulate any of the specified anatomical areas.
- K. An owner or manager of the massage establishment must be present during all operating hours.

5.03.120: 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.

5.03.130: 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.

5.03.140: HOURS:

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 ten o'clock (10:00) P.M. and six o'clock (6:00) A.M.

5.03.150: EMPLOYMENT OF MASSAGE THERAPIST:

No person shall employ, as a massage therapist, any person unless the employee has obtained and has in effect a state license issued by the Illinois Department of 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. Or a reciprocal license as defined by 225 ILCS 57/1 et seq.

5.03.160: INSPECTIONS REQUIRED:

Upon issuance of a massage establishment business license, in addition to the inspection requirements of this article, the licensee shall provide any representative of the Village with reasonable opportunity to inspect the premises for which the license is issued and to interview the licensee's agents and employees for the purpose of determining that the provisions of this article 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 in any manner.

5.03.170: 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 article to administer or permit massage within the Village, except within the establishment licensed to carry on such business under this article 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 article 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 Carol Stream Police Department.

5.03.180: MASSAGE ESTABLISHMENT LICENSE; EXEMPTIONS:

The massage establishment license shall not be required for 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, 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.*; a physical therapist licensed under the Medical Practice Act, 225 Illinois Compiled Statutes 60/1 *et seq.*; a chiropractor licensed under the Medical Practice Act, 225 Illinois Compiled Statutes 60/1 *et seq.*; and a naprapath listed under the Illinois Naprapathic Practice Act, 225 Illinois Compiled Statutes 63/1 *et seq.*

5.03.190: SALE OR TRANSFER OR CHANGE OF LOCATION:

No license issued under the provisions of this Article is transferable. Upon sale, transfer or relocation of a massage establishment, the license shall be null and void and a new license required. Upon the death or legal incapacity of the licensee or any co-licensee of the massage establishment, any heir or beneficiary of a deceased licensee, or any legal guardian of an heir or beneficiary of a deceased licensee, or any legal guardian of any legally incapacitated licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transition and application for a new license.

5.03.200: NAME AND PLACE OF BUSINESS:

No person granted a license pursuant to this article, 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 need not be specified on the license.

5.03.210: 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 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 article.

5.03.220: PUBLIC NUISANCE:

It is determined and declared by the corporate authorities to be a public nuisance and a menace to the health, safety and welfare for any person, firm association or corporation to establish, operate, or maintain a massage establishment, whether open to the public generally or operated as a private or semi-private club, within the village where any massage therapist, employee or patron touches, rubs, strokes, kneads, massages, fondles, or manipulates the genital area of any other person or exposes his or her sexual or genital area to any other person for the purpose of sexual arousal and/or sexual gratification. Touching of the genital area by a licensed physician, chiropractor, osteopath, or nurse for the purpose of medical examination or treatment shall not constitute a public nuisance hereunder.

5.03.230: DUTY TO REPORT:

All employees, managers and agents of a massage establishment are mandated reporters and shall immediately report to the Lemont Police Department within one business day of any sexual misconduct that is observed or any allegations of sexual misconduct that are reported.

5.03.240: VIOLATION AND PENALTY:

Any person violating any provisions of this article shall be punished by a fine as determined by the Baroi Stream Code of Ordinances 15-4-5 INPEX OF MINIMUM FINES. Penalties for ordinance violations may also be determined by administrative adjudication. A separate offense shall be deemed committed each time on each day during or on which violation occurs or is permitted to occur.

5.03.250: ANNUAL FEE ORDINANCE:

The annual fee for a business license of this section shall be presented by ordinance. In the absence of provisions to the contrary, all fees and charges shall be paid in advance at the time application therefore is made to the Planning and Economic Development Department. Except as otherwise provided all license fees shall become a part of the corporate fund.

SECTION 2: ANNUAL FEE ORDINANCE.

FY 2019-202 is hereby amended by adding Section 3 Massage Establishment License: \$100.00 a year plus \$150.00 per criminal background check.

SECTION 3: EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon its passage, approval and publication as provided by law.

SECTION 4: REPEAL OF CONFLICTING PROVISIONS.

All ordinances and resolutions, or parts, thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

SECTION 5: SEVERABILITY.

If any provision of this Ordinance or application therefor to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance than can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance are severable.

PASSED AND APPROVED THIS _____ DAY OF _____, 2019

ADOPTED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DUPAGE, ILLINOIS, ON THIS _____ DAY OF NOVEMBER, 2019.

PRESIDENT AND VILLAGE BOARD MEMBERS:

	AYES:	NAYS:	ABSENT:	ABSTAIN:
Janelle Kittridge	_____	_____	_____	_____
Ryan Kwasneski	_____	_____	_____	_____
Dave Maher	_____	_____	_____	_____
Ken McClafferty	_____	_____	_____	_____
Rick Sniegowski	_____	_____	_____	_____
Ron Stapleton	_____	_____	_____	_____

John Egofske, Village President

Attest:

Charlene M. Smollen, Village Clerk