

ORDINANCE NO. _____

AN ORDINANCE APPROVING A TEXT AMENDMENT
OF THE LOMBARD ZONING ORDINANCE
TITLE 11, CHAPTER 122
OF THE LOMBARD VILLAGE CODE

ECDC: Text Amendment to Chapter 122 of the Village Code – Massage Establishments

WHEREAS, the Village of Lombard is a non-home rule municipality organized and existing under the laws of the State of Illinois; and

WHEREAS, the Village is authorized to enact ordinances for the protection of the public health, safety, welfare, and morals of its residents, including, without limitation, the licensing and regulation of massage establishments operating within the Village; and

WHEREAS, the Village has determined that certain massage establishments operating within the Village have been used, or pose a substantial risk of being used, to facilitate prostitution, human trafficking, sexual exploitation, and other unlawful activity, posing a substantial threat to the public health, safety, welfare, and morals of the Village and its residents; and

WHEREAS, the President and Board of Trustees of the Village find that the amendments set forth herein are necessary and appropriate to protect the public health, safety, welfare, and morals of the Village and its residents; and

WHEREAS, the President and Board of Trustees of the Village have determined that it is in the best interests of the Village to amend Chapter 122 of the Lombard Village Code as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article I (General Provisions), Section 122.01 (Definitions) of the Lombard Village Code, is hereby amended to add the following definitions in their proper alphabetical order, which shall read as follows:

Manager. Any individual designated by the permittee as the person responsible for the supervision and operation of a massage establishment during business hours. A manager may be the permittee, an owner, or an employee authorized by the permittee to act on behalf of the massage establishment. Each manager shall meet the qualifications set forth in § 122.40 of this chapter.

Specified criminal act. Any of the offenses enumerated in subsection 122.03(D)(2)(a) through (e) of this chapter, and any specified sexual activity, prostitution, solicitation of prostitution, pimping, pandering, keeping or patronizing a place of prostitution, trafficking in persons,

involuntary servitude, sexual exploitation of a child, or any offense substantially similar to any of the foregoing, whether committed in this State or in any other jurisdiction.

Specified sexual activity. Any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; (4) human genitals in a state of sexual stimulation, arousal, or tumescence; or (5) excretory functions as part of, or in connection with, any of the activities set forth in clauses (1) through (4) of this definition.

Trafficking awareness training. A training program that addresses the identification of human trafficking, recognition of indicators of forced labor and commercial sexual exploitation, and reporting of suspected trafficking to appropriate authorities, offered by the Illinois Department of Human Services, the Polaris Project, the National Human Trafficking Hotline, or another organization or program approved by the Village Manager.

Transfer of ownership or control. Any of the following: (1) the sale, lease, or sublease of the massage establishment business; (2) the transfer of stock, membership interests, partnership interests, or other equity interests that constitute a controlling interest in the massage establishment business, whether by sale, exchange, gift, inheritance, or similar means; (3) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the massage establishment business; or (4) the acquisition by any person not previously identified as an applicant under § 122.10(B) of this chapter of an ownership interest of five percent or more in the massage establishment business.

SECTION 2: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article I (General Provisions), Section 122.03 (Filing and Fee), Subsection (A) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“(A) Every applicant for a permit to maintain, operate, or conduct a massage establishment shall file an application with the Village Manager's office upon a form provided by the Village, and pay a nonrefundable filing fee of \$250.00 plus the actual cost of processing all fingerprints required under this chapter, including without limitation the fingerprints required under subsections 122.10(B)(8) and 122.10(E) of this chapter, to the Village Treasurer, who shall issue a receipt which shall be attached to the application filed with the Village Manager's office. The renewal fee shall be \$100.00, plus the actual cost of processing any additional fingerprints not previously processed by the Police Department.”

SECTION 3: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article I (General Provisions), Section 122.03 (Filing and Fee), Subsection (D)(2) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“(2) That the applicant, or any other person subject to a background investigation under this chapter, has been convicted of, or pled nolo contendere to, any of the following. For purposes of this subsection, persons subject to a background investigation under this chapter include, without limitation, every person whose information is required to be furnished under subsection 122.10(B) of this chapter, every designated manager, and every non-therapist employee identified pursuant to subsection 122.10(E) of this chapter:

(a) A felony under the laws of any state or of the United States;

- (b) Any offense involving sexual misconduct with a child or any offense requiring registration under the Sex Offender Registration Act, 730 ILCS 150/1 et seq.;
- (c) Any offense involving prostitution, soliciting for a prostitute, pimping, pandering, keeping a place of prostitution, patronizing a prostitute, or any similar offense opposed to decency and morality, including without limitation any offense set forth in Article 11 of the Criminal Code of 2012, 720 ILCS 5/Art. 11;
- (d) Trafficking in persons, involuntary servitude, involuntary sexual servitude of a minor, or any similar offense, including without limitation any offense set forth in 720 ILCS 5/10-9 or in 720 ILCS 5/Art. 11; or
- (e) Any offense involving controlled substances under the Illinois Controlled Substances Act, 720 ILCS 570/100 et seq., or the Cannabis Control Act, 720 ILCS 550/1 et seq., other than misdemeanor possession offenses.

Conviction of, or a plea of nolo contendere to, any offense set forth in subsections (D)(2)(a), (b), (c), or (d) above, or any substantially similar offense under the laws of any other jurisdiction, shall operate as a permanent bar to the issuance of a permit under this chapter, and shall further operate as a permanent bar to the conviction-bearing person's serving as an owner, partner, member, officer, director, corporate-governance manager, designated manager, or non-therapist employee of any massage establishment licensed under this chapter. Neither the Police Chief, nor the Village Manager, nor any other Village official shall have authority to waive the permanent bar set forth in this paragraph.

The Police Chief, at his or her discretion, may authorize the issuance of a permit notwithstanding a conviction or plea set forth in subsection (D)(2)(e) above, if he or she finds that such conviction occurred at least five years prior to the date of application, the conviction-bearing person has had no subsequent convictions, and the conviction-bearing person has shown evidence of rehabilitation sufficient to warrant the public trust. The discretion afforded the Police Chief under this paragraph shall not extend to any offense set forth in subsections (D)(2)(a), (b), (c), or (d) above.”

SECTION 4: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article II (Establishment License), Section 122.10 (Application), Subsection (B) of the Lombard Village Code, is hereby amended by amending the introductory paragraph thereof to read in its entirety as follows:

“(B) In addition to the foregoing, any applicant for a permit, including any partner or limited partner of a partnership applicant, any officer, director, manager, or member of a corporate or limited liability company applicant, any stockholder holding more than five percent of the stock of a corporate applicant, any member holding a five percent or greater membership interest in a limited liability company applicant, and any other person holding a direct or indirect ownership interest of five percent or more in the applicant or in the proposed massage establishment, shall furnish the following information:”

SECTION 5: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article II (Establishment License), Section 122.10 (Application) of the Lombard Village Code, is hereby amended to add new subparts (13), (14), and (15) to subsection (B) thereof,

immediately following existing subpart (12), and to add new subsections (D) and (E), all of which shall read as follows:

“(13) The name, residence address, telephone number, and e-mail address of each person who will serve as a manager of the massage establishment, together with a copy of a government-issued photographic identification for each such person and proof of completion of trafficking awareness training within the preceding twelve (12) months.

(14) A written statement, executed under oath, identifying every person and entity having a direct or indirect ownership interest of five percent or more in the applicant, in the proposed massage establishment, or in any entity entitled to share in the profits or revenues of the proposed massage establishment, including the name, address, telephone number, and percentage of ownership interest of each such person or entity.

(15) A signed authorization permitting the Village to obtain a fingerprint-based criminal history records check, through a vendor authorized by the Illinois State Police, against the fingerprints submitted under subpart (8) of this subsection (B).

(D) Establishment-level disclosures. The application for a permit to operate a massage establishment shall be accompanied by the following:

- (1) A diagram of the proposed licensed premises showing the location, dimensions, and intended use of all rooms and spaces, including without limitation all massage rooms, entrances and exits, reception and waiting areas, restrooms, dressing rooms, storage areas, employee-only areas, and any locked or restricted-access spaces. The diagram shall be oriented to north or to a designated street or other readily identifiable object, and shall be drawn to a designated scale, or with marked dimensions accurate to within plus or minus six (6) inches, sufficient to show clearly the various interior dimensions of all areas of the licensed premises and to demonstrate compliance with the provisions of this chapter. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required;
- (2) The legal business name under which the establishment will operate and any assumed business name registered with the Illinois Secretary of State or the DuPage County Clerk;
- (3) The name, address, telephone number, and e-mail address of the person authorized to receive notices on behalf of the permittee;
- (4) A written designation of the manager or managers who will be responsible for the operation of the establishment during business hours; and
- (5) A copy of the lease, deed, or other document evidencing the applicant's right to occupy the proposed licensed premises for the full term of the requested permit.

(E) Background investigation of managers and employees.

- (1) Prior to the issuance of any permit under this chapter, the applicant shall provide the Village with the names and residence addresses of each manager and each non-therapist employee who will work at the licensed premises, and, except to the extent already required and provided under subsection (B)(15) of this section, shall provide a signed authorization from each such person permitting the Village to

obtain a fingerprint-based criminal history records check through a vendor authorized by the Illinois State Police, and the fingerprints of each such person in a manner acceptable to the Village.

- (2) For each licensed massage therapist who will work at the licensed premises, the applicant shall provide a copy of the therapist's current and valid Illinois Department of Financial and Professional Regulation license, which shall satisfy the background investigation requirement of this subsection (E) for that therapist.
- (3) After the issuance of a permit, the permittee shall not permit any person to begin work at the licensed premises as a manager or non-therapist employee until the Village has received and reviewed the criminal history records check materials required by this subsection (E) for that person.
- (4) The criminal history records check materials required by this subsection (E) shall be updated for each manager and non-therapist employee at the time of each annual permit renewal, or more frequently as the Village Manager may require."

SECTION 6: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article II (Establishment License), Section 122.11 (Issuance) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

"Upon receipt of favorable recommendations from all departments reviewing a massage establishment application, the Village Manager's office shall issue a permit to maintain a massage establishment. Issuance of a permit under this chapter shall not be deemed a waiver of the permittee's continuing obligation to comply with all applicable Village codes, all applicable State and federal laws, and the requirements of this chapter, and such permit shall remain subject to suspension or revocation for any subsequent noncompliance."

SECTION 7: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article II (Establishment License), Section 122.12 (Revocation or Suspension) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

"§ 122.12 Revocation or suspension.

For purposes of this section, good cause for revocation or suspension shall include, without limitation:

- (A) Any conviction of, or plea of nolo contendere to, any offense set forth in subsection 122.03(D)(2) of this chapter by the permittee, by any owner of the permittee, or by any manager, employee, or licensed massage therapist of, or working at, the licensed premises;
- (B) The commission of, or attempt to commit, any specified criminal act on the licensed premises by the permittee, by any manager, employee, or licensed massage therapist of, or working at, the licensed premises, or by any patron, regardless of whether the permittee had actual or constructive knowledge of such commission or attempt;
- (C) Failure to maintain or to make available for inspection upon request any list, register, record, license, identification, or other document required by this chapter to be maintained or made available;

- (D) Operation by, or employment of, any person who is not lawfully authorized under Illinois law to provide massage services for compensation;
- (E) Failure to notify the Village of any transfer of ownership or control, or of any change in manager or business location, within the time required by this chapter;
- (F) Operation of the licensed premises outside the hours of operation permitted by this chapter, or permitting any non-employee or non-emergency-personnel to be present on the licensed premises outside such hours;
- (G) Refusal to permit any duly authorized Village official to conduct an inspection authorized under this chapter, or interference with any such inspection, or refusal to produce business records, identification, or other documents required by this chapter to be produced upon request;
- (H) The maintenance of any hidden room, concealed area, locked or barricaded interior area, or modification of the diagram of the licensed premises that has not been disclosed to and approved by the Village in accordance with this chapter, or any other physical condition of the licensed premises that impedes lawful inspection;
- (I) Allowing any person to reside on, sleep overnight on, maintain living quarters on, or use the licensed premises for any residential purpose;
- (J) The presence on the licensed premises of any item inconsistent with the operation of a massage establishment, including without limitation any bed, mattress, futon, sleeping bag, residential cooking appliance, or personal clothing storage, in violation of this chapter;
- (K) Any false, misleading, or materially incomplete statement, whether knowingly or negligently made or caused to be made by the permittee, in the application, in any renewal materials, or in any record required by this chapter to be maintained;
- (L) Delinquency by the permittee in the payment to the Village of any taxes, fees, fines, water charges, or other amounts assessed against or imposed on the permittee or the licensed premises in connection with the massage establishment business; or
- (M) Any other violation of this chapter or of any other applicable provision of this Code, of State or federal law, or of any rule or regulation promulgated by the Village Manager pursuant to this chapter.
 - (1) Permittee responsibility for acts of others. Every act or omission, of whatsoever nature, constituting a violation of any of the provisions of this chapter, by any officer, director, owner, partner, member, manager, licensed massage therapist, employee, or other agent of any permittee, shall be deemed and held to be the act or omission of such permittee, and the permittee shall be subject to enforcement under this chapter to the same extent as if such act or omission had been committed or omitted by the permittee personally. Accordingly, any such act or omission shall be deemed, for purposes of determining whether the permittee's license shall be issued, renewed, suspended, or revoked, to be the act or omission of the permittee. The lack of actual or constructive knowledge on the part of the permittee shall not constitute a defense to any enforcement action under this chapter, but may be considered as a factor in mitigation of the sanction imposed.

- (2) Specified criminal act on licensed premises. Without limiting the generality of the foregoing or of subsection (4) of this section, the commission of any specified criminal act, or any attempt thereof, on the licensed premises shall constitute independent grounds for revocation of the permit, regardless of whether such act was committed by the permittee, by any manager, employee, or licensed massage therapist of, or working at, the licensed premises, or by any patron or other person, and regardless of whether the permittee had actual or constructive knowledge of such act.
- (3) General revocation and suspension authority. Any permit issued for a massage establishment may be revoked or suspended by the Village Manager after a hearing for good cause or in any case where any of the provisions of this chapter are violated or any employee of the permittee, including a masseur or masseuse, is engaged in any conduct at permittee's place of business which violates any of the provisions of this chapter or any state law which provides for imprisonment, and permittee has actual or constructive knowledge of such violations or the permittee should have actual or constructive knowledge by due diligence, or where any applicant has made a false statement on an application for a permit under this chapter or in any case where the permittee or licensee refuses to permit any duly authorized police officer or inspector of the Village and/or the County to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the Village Manager, after hearing upon the recommendations of the Director of Building and/or Fire Chief that such business is being managed, conducted, or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation or hygiene.
- (4) Sanctions for employee violations. Any violation of this chapter by any manager, employee, or licensed massage therapist of, or working at, the licensed premises shall be cause for suspension or revocation of the permit. Notwithstanding any provision of this chapter to the contrary, the commission of, or attempt to commit, any specified criminal act on the licensed premises, or any other violation that, in the judgment of the Village Manager, presents a substantial threat to the public health, safety, welfare, or morals, shall be cause for revocation of the permit upon a single occurrence, without any requirement of progressive discipline or prior violation.
- (5) Procedure. The Village Manager, before revoking or suspending any permit, shall give the permittee at least ten (10) days' written notice of the charges against the permittee and the opportunity for a hearing before the Village Manager, at which time the permittee may present evidence bearing upon the question. The charges shall be specific and in writing. The Village Manager may designate a hearing officer to schedule, convene, and conduct the hearing, in which case the hearing officer shall have the same powers as the Village Manager to conduct the hearing, and shall submit proposed findings and recommendations to the Village Manager within seven (7) days after the close of the hearing. Within fourteen (14) days after the close of the hearing, the Village Manager, having considered the record made at the hearing, shall render a decision in writing setting forth the reasons for the

decision. The decision of the Village Manager shall be a final administrative decision subject to judicial review.

- (6) Emergency suspension pending hearing. Notwithstanding any other provision of this section, the Village Manager may order the immediate suspension of all operations at a massage establishment, pending the hearing required by subsection (5) of this section, where the Village Manager determines, based upon credible information, that:
 - (a) There is an immediate danger to the public health, safety, welfare, or morals;
 - (b) A specified criminal act has been, or is reasonably believed to have been, committed on the licensed premises; or
 - (c) The license has been suspended within the preceding forty-eight (48) months.

Where the Village Manager orders an emergency suspension under this subsection (F), the Village Manager shall promptly serve written notice of the suspension on the permittee, stating the grounds for the suspension and the date of the hearing required by subsection (E) of this section. Such hearing shall commence not more than fourteen (14) days after the date of the emergency suspension, unless an earlier or later date is agreed to by the permittee and the Village Manager. The emergency suspension shall remain in effect until the conclusion of the hearing and the issuance of the Village Manager's written decision under subsection (E) of this section, unless sooner lifted by the Village Manager.

- (7) Surrender of permit. Upon the suspension or revocation of a permit pursuant to this section, the Village Manager shall take custody of the suspended or revoked permit.”

SECTION 8: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations), Section 122.31 (Operating Requirements) of the Lombard Village Code, is hereby amended to add the following subparts immediately following existing subpart (N), which shall read as follows:

“(O) A designated manager shall be present on the licensed premises at all times during business hours. The permittee shall maintain on the licensed premises a current written designation of the manager on duty.

- (P) The reception or waiting area of the massage establishment shall be maintained in a manner visible from outside of the immediate entrance of the establishment, including, without limitation, through any storefront windows or any entrance door that is transparent and unobstructed, and from any directly adjoining hallway, corridor, or atrium that is open to the public. No curtains, blinds, covered windows, partitions, screens, reflective film, paint, signage, or other obstruction shall be installed or maintained so as to prevent ordinary visibility into the reception or waiting area, except as otherwise required by law. Any exterior window or door of the licensed premises with a view to the reception or waiting area shall be free of any posting or material that would obstruct the view of the reception or waiting area from the outside of the establishment.
- (Q) No interior door of any room used for massage services, restroom, dressing room, or other interior space within the licensed premises shall be fitted with any lock, bolt,

latch, or other locking device that cannot be readily opened from the exterior of such room without the use of a key, code, tool, or special knowledge. A privacy latch that may be opened from either side without a key, code, or tool is permitted. No interior door shall be barricaded, blocked, chained, or otherwise secured in a manner that prevents lawful inspection by Village personnel.

- (R) No person other than a patron then receiving services, a licensed massage therapist actively administering such services, or an additional employee acting within the scope of employment shall be present in any massage room during the performance of massage services, except for law enforcement, code enforcement, emergency medical personnel, or such other persons as the patron may expressly request.
- (S) Each massage establishment shall maintain on the licensed premises, and make available for inspection upon request, a current register containing the legal name, any aliases, residence address, telephone number, date of birth, gender, date of hire, date of termination of employment (if applicable), and position of each manager, employee, and licensed massage therapist working at the establishment, together with a copy of each massage therapist's current and valid Illinois Department of Financial and Professional Regulation license and a copy of a government-issued photographic identification for each manager and non-therapist employee. The register shall be maintained for all current managers, employees, and licensed massage therapists, and for all such persons employed at any time during the preceding thirty-six (36) months.
- (T) The permittee shall maintain on the licensed premises, for a period of not less than two years, a schedule or other business record reflecting the dates and hours worked by each manager, employee, and licensed massage therapist.
- (U) No massage establishment shall be used, or permitted to be used, for sleeping, habitation, or any residential purpose. No person shall reside, sleep overnight, or maintain living quarters on the licensed premises.
- (V) No alcoholic liquor, as defined in the Liquor Control Act of 1934, 235 ILCS 5/1-1 et seq., shall be sold, served, consumed, possessed, or permitted on the licensed premises.
- (W) No bed, mattress, futon, sleeping bag, cot, residential cooking appliance, refrigerator larger than that ordinarily used in a commercial break room, personal clothing storage, personal mail, or other item or article inconsistent with the operation of a massage establishment shall be present on, stored at, or kept at the licensed premises. The presence of any such item shall be prima facie evidence of a violation of subsection (U) of this section.
- (X) No customer or patron shall be permitted to be present on the licensed premises outside the hours of operation permitted under subsection (N) of this section. The licensed premises may be entered outside such hours only by the permittee, the manager on duty, employees performing cleaning or maintenance, licensed massage therapists, or law enforcement, code enforcement, or emergency personnel.
- (Y) A copy of the current and valid Illinois Department of Financial and Professional Regulation license of each licensed massage therapist working at the licensed premises shall be conspicuously displayed in either the reception area of the licensed

premises or in each massage room in which such therapist administers massage services, in a location and manner that is plainly visible to each patron.

- (Z) No massage establishment shall be advertised, promoted, or otherwise held out, in any medium, by means of any advertisement, picture, statement, depiction, or other matter that suggests to prospective patrons that any services are available other than those services permitted under this chapter, or that suggests that any employee, masseur, masseuse, or licensed massage therapist is dressed in any manner other than as permitted under this chapter. Without limiting the generality of the foregoing, no such advertising, promotion, or holding-out shall use language, imagery, or representations suggesting the availability of sexual services, escort services, dating services, or sexual conduct, or use photographs of partially clothed or unclothed individuals. The use of any such advertising, promotion, or holding-out shall constitute a violation of this chapter and good cause for revocation of the permit.
- (AA) No structural modification, addition, removal, or relocation of any partition, wall, door, window, or interior space, and no installation, removal, or modification of any window covering, lock, or other obstruction to visibility or access, shall be made at the licensed premises after the issuance of a permit unless the permittee first submits a revised floor plan to the Village Manager's office and receives written approval of the proposed modification.
- (BB) The permittee shall maintain on the licensed premises, for a period of not less than three years, a contemporaneous record of each transaction at the licensed premises, including the date, the amount paid, the service provided, the name or identifier of the licensed massage therapist providing the service, and the method of payment. Such records shall be made available for inspection upon request by any duly authorized Village official.
- (CC) The permittee shall comply with the posting requirements of the Human Trafficking Resource Center Notice Act, 775 ILCS 50/1 et seq. The notice required by said Act shall be posted in a conspicuous place near the public entrance of the licensed premises or in another conspicuous location in clear view of the public and employees, in compliance with the form, size, and language requirements of said Act. Failure to comply with the posting requirements of said Act shall constitute a violation of this chapter, in addition to any civil penalty that may be assessed under said Act.
- (DD) No massage establishment shall be equipped with tinted glass, one-way glass, or any other glazing or window treatment that prevents ordinary visibility into the licensed premises from the outside of the establishment, in any room, office, or other interior space of the licensed premises.
- (EE) No massage establishment shall place, publish, distribute, or cause to be placed, published, or distributed any advertisement, picture, or statement known, or that through the exercise of reasonable care should be known, to be false, deceptive, or misleading and intended to induce any person to purchase or utilize any professional massage services.

- (FF) No advertising, promotion, or other holding-out of a massage establishment, by any means or method, shall suggest or describe the physical characteristics of any employee, masseur, masseuse, or licensed massage therapist of, or working at, the licensed premises.”

SECTION 9: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations), Section 122.33 (Inspection) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“§ 122.33 Inspection.

- (A) The Police Department, Community Development Department, and Fire Department shall, from time to time and at least annually, make an inspection of each massage establishment granted a permit under the provisions of this chapter for the purpose of determining that the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.
- (B) Such inspections may include, without limitation, review of licenses, employee and manager registers, identification documents, floor plans, insurance certificates, transaction records, scheduling records, training records, and other records required to be maintained under this chapter. The permittee shall make such records available for inspection on the licensed premises upon request at reasonable times and in a reasonable manner.
- (C) As a condition of the issuance, renewal, and continued effectiveness of a permit issued under this chapter, the permittee, by accepting such permit, consents to administrative inspections of the licensed premises by the Police Department, Community Development Department, Fire Department, or any other duly authorized Village official, at all reasonable times during business hours, of all areas of the licensed premises, including all interior rooms, storage areas, and employee-only areas. Such consent shall extend to inspection of all records required by this chapter to be maintained on the licensed premises. The permittee, by accepting a permit issued under this chapter, acknowledges that the operation of a massage establishment is a closely-regulated activity within the meaning of applicable law and that the inspection authority granted by this section is reasonably necessary to further the substantial governmental interests in protecting the public health, safety, welfare, and morals. Nothing in this subsection shall require the permittee to consent to the inspection of a massage room while a patron is then receiving services therein, except in exigent circumstances or upon a reasonable belief that a violation of law is then occurring within such room.
- (D) It shall be unlawful for the permittee, for any manager, employee, or licensed massage therapist of, or working at, the licensed premises, or for any other person to prohibit, interfere with, or refuse to allow any inspection authorized by this section, or to obstruct, delay, or otherwise hinder any duly authorized Village official conducting such inspection. Any such prohibition, interference, refusal, or obstruction shall constitute a violation of this chapter and shall constitute good cause for suspension or

revocation of the permit pursuant to § 122.12 of this chapter, in addition to any other penalty provided by this Code or by law.”

SECTION 10: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations), Section 122.35 of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“§ 122.35 Employee identification and license display.

- (A) Every manager, employee, and licensed massage therapist working at a massage establishment shall maintain on his or her person, while on duty at the licensed premises, a government-issued photographic identification card.
- (B) Every licensed massage therapist working at a massage establishment shall maintain on his or her person, while on duty at the licensed premises, the original or a copy of his or her current and valid Illinois Department of Financial and Professional Regulation license.
- (C) Upon request by any duly authorized Village official conducting an inspection under this chapter, each manager, employee, and licensed massage therapist shall promptly present the identification and licensure documentation required by this section.
- (D) Failure to produce the identification or proof of licensure required by this section shall constitute a violation of this chapter and good cause for revocation of the permit issued to the licensed premises.
- (E) The display of each licensed massage therapist's Illinois Department of Financial and Professional Regulation license on the licensed premises, in the manner required by subsection 122.31(Y) of this chapter, shall not relieve any licensed massage therapist of the requirement to maintain his or her license on his or her person while on duty as required by subsection (B) of this section.”

SECTION 11: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations), Section 122.36 (Display and Transfer of Permit) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“§ 122.36 Display and transfer of permit; reporting of changes.

- (A) Display. Every permittee shall display a valid permit in a conspicuous place within the massage establishment so that the same may be readily seen by patrons entering the premises.
- (B) Non-transferability. A permit issued under this chapter shall be applicable only to the specific permittee and licensed premises designated therein, and shall not be sold, leased, transferred, or otherwise assigned. Any attempt to sell, lease, transfer, or assign a permit shall be void.
- (C) Effect of transfer of ownership or control. Any transfer of ownership or control of a massage establishment, as defined in § 122.01 of this chapter, shall constitute a change in the permittee. Upon any such transfer of ownership or control, the existing permit shall be deemed surrendered and extinguished by operation of law. A new application shall be made and processed, and a new permit issued, in accordance with §§ 122.03,

122.10, and 122.11 of this chapter, before the transferee may operate the massage establishment. Any operation of a massage establishment by a transferee following a transfer of ownership or control, without the issuance of a new permit, shall constitute operation without a permit in violation of § 122.02 of this chapter, shall constitute a separate violation for each day on which such operation continues, and shall constitute good cause for revocation of any then-existing permit issued to the transferor.

- (D) Change of manager. Not less than ten (10) business days before any change in the designated manager of a massage establishment, the permittee shall give the Village Manager written notice of the proposed change. The notice shall include all of the information required by § 122.10(B) of this chapter with respect to the proposed new manager, and the proposed new manager shall satisfy the qualifications set forth in § 122.40 of this chapter.
- (E) Other changes. Any change in any other material information given by the permittee in the application, including without limitation any change in the licensed premises, shall be reported to the Village Manager in writing within ten (10) days after such change occurs.”

SECTION 12: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations), Section 122.37 (Exemptions) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“§ 122.37 Exemptions.

- (A) A massage establishment permit shall not be required of an establishment where persons engage in massage, massage therapy, or similar practices, but each such person is not required to obtain a massage therapist license under Illinois law.
- (B) The burden of demonstrating the applicability of the exemption set forth in subsection (A) of this section shall at all times rest with the establishment claiming the exemption. Any such establishment shall maintain on the premises, and make available for inspection upon request by any duly authorized Village official, documentation evidencing the qualifying credentials of each person engaged in massage, massage therapy, or similar practice at the establishment, including without limitation a copy of each such person's current and valid license, certification, registration, or other authorization under any applicable Illinois statute.
- (C) Failure to maintain or to produce the documentation required by subsection (B) of this section, upon request, shall create a rebuttable presumption that the exemption set forth in subsection (A) of this section does not apply to the establishment.”

SECTION 13: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations), Section 122.38 (Public Nuisance) of the Lombard Village Code, is hereby amended to read in its entirety as follows:

“§ 122.38 Public nuisance.

Any building, structure, or premises used as a massage establishment in violation of this chapter, with the intentional, knowing, reckless, or negligent permission of the owner thereof or the owner's agent managing the building, structure, or premises, together with all fixtures

and other property used in violation of this chapter, is hereby declared to be a public nuisance. Such public nuisance may be abated, enjoined, or otherwise restrained in any manner authorized by law, including without limitation by proceedings under Section 11-60-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-60-1 et seq., in addition to suspension or revocation of the permit, fines, or other penalties provided by this Code or by law.”

SECTION 14: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations) of the Lombard Village Code, is hereby amended to add a new Section 122.40 (Manager qualifications and training) immediately following Section 122.38 (Public Nuisance), which shall read in its entirety as follows:

“§ 122.40 Manager qualifications and training.

- (A) Every manager designated by a permittee under this chapter shall, at all times while serving as a manager:
 - (1) Be at least twenty-one (21) years of age;
 - (2) Not have been convicted of, or pled nolo contendere to, any of the offenses set forth in subsection 122.03(D)(2) of this chapter, except that the Police Chief's discretion under subsection 122.03(D)(2) may, where exercised, authorize a person convicted of an offense set forth in subsection 122.03(D)(2)(e) to serve as a manager;
 - (3) Have completed a fingerprint-based criminal history records check in accordance with subsection 122.10(E) of this chapter; and
 - (4) Have completed trafficking awareness training within the preceding twelve (12) months.
- (B) The permittee shall maintain on the licensed premises, and make available for inspection upon request, documentation evidencing the qualifications and training required by this section for each designated manager.
- (C) The permittee shall not designate, and shall not permit any person to serve as, a manager who does not satisfy the qualifications set forth in this section.”

SECTION 15: That Title XI (Business Regulations), Chapter 122 (Massage Establishments), Article III (Facilities and Operations) of the Lombard Village Code, is hereby amended to add a new Section 122.41 (Disqualification) immediately following Section 122.40 (Manager qualifications and training), which shall read in its entirety as follows:

“§ 122.41 Disqualification.

- (A) Ownership-based disqualification. Where a permit issued under this chapter has been revoked, neither the prior permittee, nor any person or entity in which the prior permittee, or any owner of the prior permittee, holds a direct or indirect ownership interest of five percent or more, shall be eligible to receive a permit under this chapter, at any location within the Village, for a period of five (5) years after the date of revocation. The disqualification set forth in this subsection (A) shall apply regardless of any change in legal entity, business name, ownership structure, or proposed location, where the substantial ownership or control of the proposed permittee is the

same as, or substantially the same as, that of the prior permittee whose permit was revoked.

- (B) Relationship-based disqualification. No permit shall be issued under this chapter to any person who, at the time of application:
 - (1) Is married to, is the civil union partner of, or resides in the same household with, any person whose permit under this chapter has been revoked within the preceding five (5) years, or whose permit is then under suspension; or
 - (2) Has been denied a permit under this chapter, or whose permit under this chapter has been revoked, within the preceding twelve (12) months.
- (C) Waiver. The Village Manager may, in his or her discretion, waive any disqualification set forth in this section upon a showing by the applicant, by clear and convincing evidence, that the conduct giving rise to the prior revocation or denial has been fully remedied, that the applicant is not seeking the permit on behalf of, or for the benefit of, the prior permittee or any disqualified person, and that the issuance of the new permit would not be inconsistent with the public health, safety, welfare, or morals of the Village.”

SECTION 16: Transition for existing permits.

- (A) **Immediate application.** The provisions of Sections 122.03(D)(2) (disqualifying offenses) and 122.12 (revocation or suspension) of the Lombard Village Code, as amended by this Ordinance, including without limitation the provisions of Section 122.12 concerning permittee responsibility for the acts of others, the commission of specified criminal acts on the licensed premises, sanctions for employee violations, and emergency suspension pending hearing, and the substantive prohibitions on conduct set forth in Section 122.31 of the Lombard Village Code, as amended by this Ordinance (including, without limitation, the prohibitions on locked or barricaded interior doors, residential use of the licensed premises, alcohol on the licensed premises, presence of customers or patrons outside permitted hours of operation, unauthorized structural modifications, advertising suggesting non-permitted services, false or deceptive advertising, and advertising describing the physical characteristics of employees or therapists), shall apply immediately upon the effective date of this Ordinance to all permittees, regardless of the date on which the permit was issued.
- (B) **Ninety-day compliance period.** As to a permit issued and in effect on the effective date of this Ordinance, the permittee shall be afforded ninety (90) days from the effective date of this Ordinance within which to come into compliance with the following provisions of the Lombard Village Code, as amended by this Ordinance:
 - (1) The fingerprint-based criminal history records check requirements applicable to managers and non-therapist employees set forth in Section 122.10(E);
 - (2) The diagram and other establishment-level disclosures set forth in Section 122.10(D);
 - (3) The ownership disclosures set forth in Section 122.10(B), to the extent the existing permittee has not previously furnished disclosures consistent with the five-percent threshold;

- (4) The manager qualifications and training requirements set forth in Section 122.40;
 - (5) The employee register requirements set forth in Section 122.31(S);
 - (6) The schedule and transaction recordkeeping requirements set forth in Sections 122.31(T) and 122.31(BB);
 - (7) The license display requirements set forth in Section 122.31(Y); and
 - (8) The Human Trafficking Resource Center Notice Act posting requirements set forth in Section 122.31(CC).
- (C) **One-hundred-eighty-day compliance period for physical-premises modifications.** As to a permit issued and in effect on the effective date of this Ordinance, the permittee shall be afforded one hundred eighty (180) days from the effective date of this Ordinance within which to come into compliance with the visibility, glazing, and physical-premises requirements set forth in Sections 122.31(P), 122.31(Q), and 122.31(DD) of the Lombard Village Code, as amended by this Ordinance, but only to the extent that compliance with said requirements requires structural, architectural, mechanical, electrical, or plumbing modification of the licensed premises for which a building permit is required under the Lombard Village Code. The removal of window film or tint, the removal or disabling of door buzzers, the removal of window or door coverings, the repainting or refinishing of glass surfaces, and any other modification not requiring a building permit shall be subject to a ninety-day compliance period measured from the effective date of this Ordinance. Throughout the one-hundred-eighty-day compliance period, the permittee shall operate the licensed premises in a manner that does not violate any of the substantive prohibitions on conduct set forth in Section 122.31 of the Lombard Village Code, as amended by this Ordinance.
- (D) **Effect of non-compliance after compliance period.** Failure of a permittee to come into compliance with any of the provisions identified in subsection (B) or subsection (C) of this Section within the applicable compliance period after the effective date of this Ordinance shall constitute good cause for suspension or revocation of the permit pursuant to Section 122.12 of the Lombard Village Code, as amended by this Ordinance.
- (E) **Application to renewals and new permits.** The compliance periods set forth in subsections (B) and (C) of this Section shall apply to a permittee that held a permit issued and in effect on the effective date of this Ordinance, and shall continue to apply to such permittee notwithstanding the renewal of such permit during the applicable compliance period; provided, however, that nothing in this subsection shall extend any compliance period beyond the period set forth in subsection (B) or subsection (C), as applicable, measured from the effective date of this Ordinance. The compliance periods set forth in subsections (B) and (C) of this Section shall not apply to any application for a new permit submitted by a person that did not hold a permit issued and in effect on the effective date of this Ordinance, and any such new permit, upon issuance, shall be subject to all provisions of the Lombard Village Code, as amended by this Ordinance, immediately.

SECTION 17: That all ordinances, resolutions, and policies, or parts of ordinances, resolutions, or policies, in conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

SECTION 18: If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 19: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form, as provided by law.

Passed on first reading this _____ day of _____, 2026.

First reading waived by action of the Board of Trustees this _____ day of _____, 2026.

Passed on second reading this _____ day of _____, 2026, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this _____ day of _____, 2026.

Anthony Puccio, Village President

ATTEST:

Ranya Elkhatib, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2026.

Ranya Elkhatib, Village Clerk