

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 Resolution or Ordinance (Blue) Waiver of First Requested
 X Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : October 24, 2023 **(BOT) Date:** November 2, 2023

SUBJECT: PC 23-20: 730 E. St. Charles Road, Massage Establishment

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests a zoning conditional use pursuant to Section 155.416(C)(23) of the Lombard Village Code to allow for a massage establishment (as defined and regulated by Title 11, Chapter 122 of the Code of Ordinances) on the subject property located within the Corridor Commercial B4 District.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the November 2, 2023 Village Board of Trustees agenda for a first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____ Date _____
Village Manager _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the agenda distribution.



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development 

MEETING DATE: November 2, 2023

SUBJECT: **PC 23-20: 730 E. St. Charles Road, Massage Establishment**

Please find the following items for Village Board consideration as part of the November 2, 2023, Village Board meeting:

1. Plan Commission referral letter
2. IDRC report for PC 23-20
3. An Ordinance granting approval of a conditional use pursuant to Section 155.416(C)(23) of the Lombard Village Code to allow for a massage establishment (as defined and regulated by Title 11, Chapter 122 of the Code of Ordinances) on the subject property located within the B4 Corridor Commercial District.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the November 2, 2023 Village Board of Trustees agenda for a first reading.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

November 2, 2023

Village President
Keith T. Giagnorio

Village Clerk
Liz Brezinski

Trustees

Brian LaVaque, Dist. 1
Anthony Puccio, Dist. 2
Bernie Dudek, Dist. 3
Andrew Honig, Dist. 4
Dan Militello, Dist. 5
Bob Bachner, Dist. 6

Village Manager
Scott R. Niehaus

*"Our shared **Vision** for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."*

*"The **Mission** of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."*

Mr. Keith T. Giagnorio,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 23-20, 730 E. St. Charles Road

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests a zoning conditional use pursuant to Section 155.416(C)(23) of the Lombard Village Code to allow for a massage establishment (as defined and regulated by Title 11, Chapter 122 of the Code of Ordinances) on the subject property located within the Corridor Commercial B4 District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on October 16, 2023. Sworn in to present the petition were Lionel Hu, petitioner; Craig Volpe, property owner; Anna Papke, Planning and Zoning Manager; Bill Heniff, Community Development Director.

Chairperson Giuliano read the Plan Commission procedures and asked if anyone other than the petitioner intended to cross examine, and proceeded with the petition.

Mr. Volpe stated that he met with Village staff, Keith Steiskal and Tami Urish to discuss the requirements for a massage establishment. The primary concern was the tenant space did not include the required restroom with a shower, nonabsorbent flooring and wash basins in each room per Chapter 122 of the Village Code. These items will be installed as part of the tenant space build out.

Mr. Hu explained the business operations with 3 employees.

Chairperson Giuliano opened the meeting to public participation.

Brian Conway stated that he was opposed to the business due to the close proximity to residential property. There should be other businesses that would be a better fit for the location.

Chairperson Giuliano asked if any person would like to cross examine or speak in favor or against this petition, or for public comment. Hearing none, she asked for the staff report.

Ms. Papke presented the IDRC report for PC 23-20, which was entered into the public record in its entirety. The petitioner proposes to operate a massage establishment at 730 E. St. Charles Road. The property is an existing mixed-use building with retail/office space on the first floor and residences on the second floor. There is a surface parking lot behind the building. The massage establishment will occupy one of the office spaces on the first floor.

No exterior site improvements are proposed. The petitioner has submitted a floor plan that was reviewed by the Building Division. Building Division staff identified required interior facilities improvements, which were communicated to the petitioner and property owner. These items will be reviewed again during the building permitting process.

Massage establishments are required to comply with the business regulations in Chapter 122 of the Village Code. These regulations are administered by the Village Clerk's office through the business licensing process. They are not under the purview of the Plan Commission but have been provided to the Plan Commission for reference purposes only. Staff recommends approval of the petition subject to the conditions in the staff report.

Ms. Papke stated that there was one comment from the public submitted to staff prior to the meeting that was provided to the Commissioners, however it was from Mr. Conway. His testimony and written correspondence will be part of the record without being read aloud.

Chairperson Giuliano asked if there were any questions for staff.

Chairperson Giuliano asked if staff knew how many massage establishments are in the Village of Lombard. Ms. Papke responded that the exact number is not available but estimated approximately four to ten massage establishments are in Lombard.

Commissioner Sweetser asked if there were issues that the Village might see related to massage establishments.

Ms. Papke said that on the zoning side, the main considerations are whether the business is located in a zoning district that allows massage establishments as a conditional use, and from there whether there were any external impacts associated with the operation of the business that might be relevant to Plan Commission matters. Examples of such potential impacts included parking and traffic circulation. Another item usually mentioned as part of the Plan Commission process is the ability of the petitioner to bring the tenant space into compliance with the operational requirements of Chapter 122 of the Village Code and the Building Code. She said that if the petitioner can meet

these requirements, there typically would not be zoning issues associated with massage establishments.

Mr. Heniff clarified that the Plan Commission request for the conditional uses is one step in a multistep process for massage establishments. The Plan Commission is concerned with whether a massage establishment is an appropriate use in a particular location. Mr. Heniff said business operations of massage establishments fell under the purview of the licensing provisions for massage establishments. He said if massage establishments were operating outside the confines of their license, there were processes in place to address those issues, though they fell outside the purview of the zoning and land use discussion.

Chairperson Giuliano asked if there were any questions for staff. Hearing none, she opened the meeting to discussion by the Plan Commissioners.

Commissioner Invergo said he agreed with Mr. Conway and did not think the subject property was an appropriate place for a massage establishment. He noted the presence of residences and schools close by.

Commissioner Johnston asked about signage, and how much would be permitted.

Mr. Heniff said the petitioner was not requesting any signage relief. Signage would be permitted in accordance with the Sign Ordinance. Each business was entitled to at least 25 square feet of signage. Mr. Heniff described some of the other signage provisions in the Sign Ordinance.

Commissioner Johnston asked if the petitioner had signage on the building. Mr. Volpe said there was previously a sign for an insurance company on the building. It had been smaller than what was allowed per code. He said he did not want the massage business to have a large sign.

Commissioner Johnston asked the business operator how many customers were expected daily. Mr. Hu said he expected eight to ten customers per day. Mr. Volpe said there were three rooms that would be occupied at a given time. Commissioner Johnston said he was trying to get a sense of the traffic impacts.

Commissioner Johnston asked if the petitioner was already in business elsewhere. Mr. Hu said there were three existing locations.

Mr. Volpe said there was a parking lot with 15 spaces. He did not think there would be a need for people to park on the street.

Commissioner Verson asked if the clients would come by appointment or if there were walk-ins. Mr. Hu said it was by appointment.

In reference to Commissioner Invergo's earlier comment, Mr. Volpe said that there was not a school nearby. Commissioner Invergo said Westmore School was south of the subject property.

Chairperson Giuliano asked about the hours of operation. Mr. Hu said 10 a.m. to 8 p.m., seven days a week.

Commissioner Spreenberg asked if this was a relocation of an existing establishment or expanding and opening a fourth location. Mr. Hu said it would be a relocation.

Mr. Volpe asked why Commissioner Invergo had brought up the school. Commissioner Invergo said he did not think kids should be in close proximity to a massage establishment. Mr. Volpe said he knew many people who visited massage establishments and did not see why this would be an issue for the neighborhood. Commissioner Invergo said this was a thought that came to mind, that there were residences and families close to this location. Other massage establishments in town were on Roosevelt where there were not as many residents nearby. A discussion ensued regarding the nature of development on St. Charles Road.

Regarding hours of operation, Mr. Heniff noted that Chapter 122 regulates hours of operation for massage establishments within the licensing process. These hours were 6 a.m. to 9 p.m.

Mr. Volpe said he lives 15 minutes away from the building and his family members live in Lombard. Members of the family were on site frequently and would not tolerate business operations that did not comply with the licensing provisions.

Commissioner Sweetser said it would be good for the Plan Commission to familiarize themselves with massage establishment operations and the services they provide to the community.

Commissioner Spreenberg said that Mr. Heniff had noted the types of concerns that are under the purview of the Plan Commission. If the petition went to the Village Board, perhaps they would consider the licensing questions. Commissioner Spreenberg was comfortable making a motion on the zoning petition.

Commissioner Johnston said Mr. Volpe should not take the Plan Commissioners' questions personally. It was the job of the Plan Commission to ask questions about the petition.

Chairperson Giuliano asked if there were any additional comments. Hearing none, she asked for a motion from the Commissioners.

On a motion by Commissioner Spreenberg, and a second by Commissioner Johnston, the Plan Commission voted 6-0 to recommend that the Village Board approve the petition associated with PC 23-20, subject to the following five (5) conditions:

1. That this relief is limited to the operation of a massage establishment at 730 E. St. Charles Road. Any expansion, physical site improvement or alterations require approval through the Village.
2. That the operator of the massage establishment shall apply for and receive a massage establishment license, per the provisions of Section 122 of the Village Code, with said license and operation remaining in good standing.

3. That the petitioner shall develop the site in accordance with plans submitted as part of this request; and
4. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report, including but not limited to compliance with the comments from the Building Division; and
5. This approval shall be subject to the commencement time provisions as set forth within Section 155.103(F)(11).

Respectfully,

VILLAGE OF LOMBARD

Leigh Giuliano, Chairperson
Lombard Plan Commission

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

CONDITIONAL USE FOR A MASSAGE ESTABLISHMENT – 370 E. ST. CHARLES RD

OCTOBER 16, 2023

Title

PC 23-20

Petitioner

Lihua Lin
165 E. Golden Lane
Oak Creek, WI 53154

Property Owner

Craig Volpe
730 E. St. Charles Rd.
Lombard, IL 60148

Property Location

730 E. St. Charles Rd
06-19-201-018
Trustee District #4

Zoning

B4

Existing Land Use

Strip Retail

Comprehensive Plan

Community Commercial

Approval Sought

Conditional use to allow for a massage establishment (as defined and regulated by Title 11, Chapter 122 of the Code of Ordinances) within the Corridor Commercial B4 District.

Prepared By

Tami Urish
Planner I



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing a massage spa at 730 E. St. Charles Road located on the first floor of the building. There are no exterior site improvements proposed at this time and no utility improvements are necessary for the operation. The proposed floor plan is attached.

Massages establishments are further regulated by Title 11, Chapter 122, of the Code of Ordinances. These regulations have been attached.

APPROVAL(S) REQUIRED

Per Section 155.416(C)(23) of the Zoning Ordinance, massage establishments require a conditional use permit within the Corridor Commercial B4 District.

EXISTING CONDITIONS

The subject property is currently improved with a two-story multi-tenant building and associated parking lot with access from Chase Avenue. The first floor is mixed commercial uses and the second floor was constructed as residential use. The petitioner is proposing to occupy approximately 1,000 square feet of the building on the first floor.

PROJECT STATS

Lot & Bulk

(built in 1975 – the second floor plans show five apartments.)

Parcel Size:	11,520 SF
Building Size:	7,967 SF
Tenant Area:	~1,000 SF

Submittals

1. Petition for a public hearing, submitted on September 11, 2023
2. Response to Standards for a Conditional Use
3. Plat of Survey, prepared by Associated Surveying Group, P.C. prepared on June 15, 2006
4. Floor Plan, prepared by petitioner.
5. Village Code, Chapter 122: Massage Establishments

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division met the building owner and tenant on site to discuss the requirements per Chapter 122 regarding hand wash sinks, separate bathrooms, and other items that may be required during the permitting process. Should the petition be approved, additional comments will be forthcoming during this permit review.

Fire Department:

The Fire Department has no issues or concerns regarding the project. Should the petition be approved, additional comments may be forthcoming during permit review.

Private Engineering Services:

Private Engineering Services (PES) has no issues or concerns regarding the project. Should the petition be approved, additional comments may be forthcoming during permit review.

Public Works:

The Department of Public Works has no issues or concerns regarding the project. Should the petition be approved, additional comments may be forthcoming during permit review.

Planning Services Division:

The Planning Services Division (PSD) notes the following:

1. Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R2	Single Family Residential
South	-	Great Western Trail
East	B4	Vacant lot
West	B4	Used Vehicle Salvage Yard

In consideration that the B4 Corridor Commercial District is intended to provide for the needs of a much larger consumer population than is served by the B1 or B2 District and thus allowing for a wider range of uses and structure, staff finds that the project is consistent with the zoning and land use of the surrounding properties.

2. Comprehensive Plan Compatibility

The proposed site location and use as a massage establishment is consistent with the Comprehensive Plan's recommendation of mixed-use community commercial.

3. ***Zoning & Sign Ordinance Compatibility***

Per Section 155.416(C)(23) of the Village Code, massage establishments are conditional uses in the B4 District. In 2014, the massage establishment provisions in Chapter 122 were modified to reflect concerns raised by establishments. Staff finds the proposed massage establishment meets the standards for conditional uses.

The petitioner has not yet proposed any signage for the business. Future signage will require a building permit, which will be reviewed by staff for consistency with the Village Sign Ordinance.

4. ***Site Plan: Access & Circulation***

The existing access point and parking lot design has proven sufficient for the subject property. The parking lot is shared among the tenants of the building.

5. ***Elevations***

The petitioner is not proposing any changes to the exterior elevations at this time.

SITE HISTORY

The property has not appeared before the Plan Commission.

FINDINGS & RECOMMENDATIONS

Staff finds that the proposed massage establishment is consistent with its surrounding context, the Village of Lombard Comprehensive Plan, and Zoning Ordinance. Staff has reviewed the response to standards for a conditional use included as part of the petition and concurs that the petition meets the standards set forth in the Zoning Ordinance.

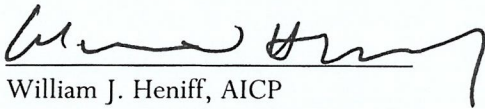
The Inter-Departmental Review Committee has reviewed the standards for the requested conditional use for a massage establishment and finds that the proposed use **complies** with the standards established by the Village of Lombard Zoning Ordinance, subject to conditions of approval based on the above considerations. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion for **approval** of PC 23-20:

Based on the submitted petition and the testimony presented, the proposed conditional use does comply with the standards required by the Village of Lombard Zoning Ordinance and that granting the conditional use permit is in the public interest and, therefore, I move that the Plan Commission accept the findings of the Inter-Departmental Review Committee Report as the findings of the Plan Commission, and recommend to the Village Board **approval** of PC 23-20, subject to the following conditions:

1. That this relief is limited to the operation of a massage establishment at 730 E. St. Charles Road. Any expansion, physical site improvement or alterations require approval through the Village.
2. That the operator of the massage establishment shall apply for and receive a massage establishment license, per the provisions of Section 122 of the Village Code, with said license and operation remaining in good standing;
3. That the petitioner shall develop the site in accordance with plans submitted as part of this request; and

4. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report, including but not limited to compliance with the comments from the Building Division; and
5. This approval shall be subject to the commencement time provisions as set forth within Section 155.103(F)(11).

Inter-Departmental Review Committee Report approved by:

A handwritten signature in black ink, appearing to read 'William J. Heniff', written over a horizontal line.

William J. Heniff, AICP
Director of Community Development

c. Petitioner

EXHIBIT 2: STANDARDS FOR CONDITIONAL USES

The following is an excerpt from the Lombard Zoning Ordinance. A detailed response to all of these standards should be provided for all conditional uses of the Lombard Zoning Ordinance.

SECTION 155.103 (F)(8) OF THE LOMBARD ZONING ORDINANCE:

No conditional use shall be recommended by the Plan Commission unless it finds:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare:

the foot and full body massage spa we are going to operate will be a legal and professional massage spa that will in no way endanger the public health, safety, morals, comfort or general welfare. No illegal activity will be allowed in our spa. We will follow the law of Illinois state and all the regulation from village of Lombard.

2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located:

We will not produce any waste or make loud noise. No illegal activity will be allowed in our space. We won't be interfering with the current use of nearby business or residence and their property value shouldn't be affected either. We will fully respect our neighbor and residence.

2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district

We will operate a quit, professional massage spa and will not in any way impede the normal development and improvement of the surrounding property.

3. That the adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided:

There are adequate public utilities including gas, electricity, and internet services. I haven't changed in to my name yet.

There are at least 3-4 access roads to our spa from the main road.

There are drainage facilities in the property that existed before our lease agreement.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets:

No traffic congestion will be caused due to fact that there are 3-4 access roads to our spa from the main road and we have plenty parking spots in the parking lot of the property

6. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard: and,

Our massage spa will conform to the objectives of current comprehensive plan of the village of Lombard. We will definitely follow all the law and regulation of state of Illinois and village of Lombard.

7. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission.

Associated Surveying Group, P.C.
Illinois Prof. Design Firm No. 164-005013
P.O. Box 510 Bolingbrook, IL 60440
TEL: 630-759-6305 FAX: 630-759-6301

PLAT OF SURVEY

LOT 84 IN ROBERTSON'S ST. CHARLES ROAD ADDITION TO WESTLAWN, BEING A SUBDIVISION IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 25, 1982 AS DOCUMENT NO. 15782, IN DUPAGE COUNTY, ILLINOIS

Scale 1"=30'

LOT 84
ASPHALT PARKING LOT
181.70'±/177.46'±
CHASE AVENUE
188.50'±/180.71'±
64.65'±
FENCE IS 630'± VLY
FENCE IS 610'± VLY
FENCE IS 610'± VLY
FENCE IS 610'± VLY
ASPHALT IS 675'± VLY
STEEL STAIRS
0.72'± VLY
TWO STORY BRICK BUILDING #730-734
12.25'±
3.16'±
18.45'±
3.16'±
37.20'±
59.10'±
26.57'±
1.70'±
1.70'±
39.03'±
VALK IS 630'± VLY
FENCE IS 630'± VLY
VALK IS 637'± VLY
VALK IS 180'± VLY
1.01'± VLY
4.75'±
VALK IS 113'± VLY
LIGHT POLE
62.85'±/63.14'±
SAINT CHARLES ROAD

MICHAEL G. HENRY
ILLINOIS PROFESSIONAL LAND SURVEYOR
CHANDLER, ILL.

State of Illinois }
County of Will } ss
I, Michael G. Henry, an Illinois Professional Land Surveyor, do hereby certify that "This professional service conforms to the current Illinois minimum standards for a boundary survey", and that the Plat herein drawn is a correct representation of said survey.

Dated, this 15th day of JUNE, A.D. 2004, FIELDWORK DATE: JUNE 12, 2004

Michael G. Henry
Illinois Professional Land Surveyor No. 35-00250
Expiry Expires: November 30, 2006

CLIENT: NEWELL
JOB NO.: 03433-03

LEGEND
ASPHALT
WOOD
SET
IRON PIPE
REMARKED
WOOD FENCE
CONCRETE
BRICK
CROSS
NOTCH
ALL OTHER FENCE TYPES

ABBREVIATIONS
A = AREA
L = LENGTH
R = RADIUS
CL = CHORD LENGTH
U = UNIFORM GRADE
V = VERTICAL CURVE
P.U. = PUBLIC UTILITY & CARRIER EASEMENT

NOTES
1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
2. ALL ANGLES ARE IN DEGREES AND DECIMALS THEREOF.
3. ALL CURVES ARE CIRCULAR UNLESS OTHERWISE NOTED.
4. ALL FENCES ARE AS SHOWN ON THIS PLAT.
5. ALL UTILITIES ARE AS SHOWN ON THIS PLAT.
6. ALL EASEMENTS ARE AS SHOWN ON THIS PLAT.
7. ALL RIGHTS OF WAY ARE AS SHOWN ON THIS PLAT.
8. ALL OTHER FEATURES ARE AS SHOWN ON THIS PLAT.

FLOOR PLAN

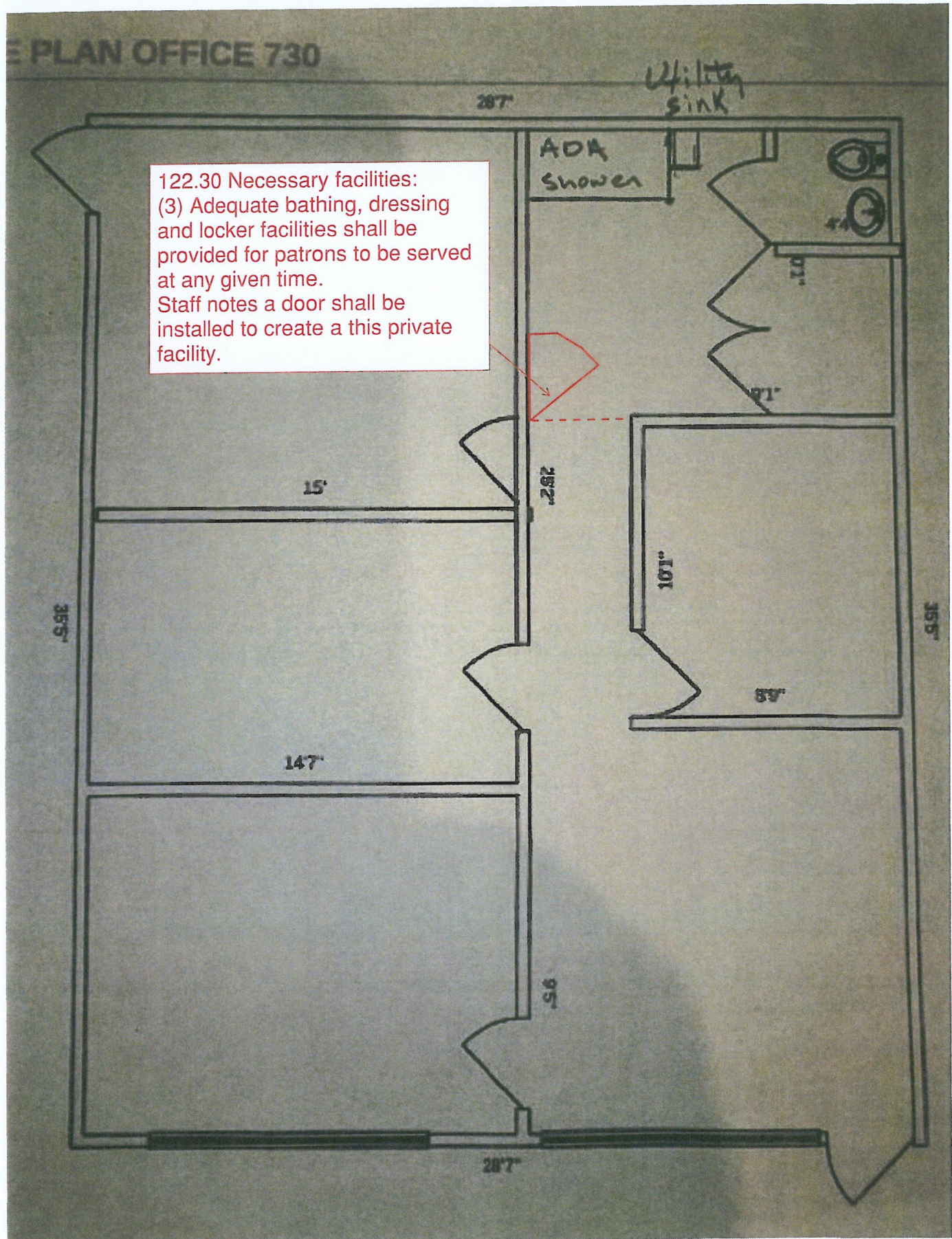


EXHIBIT 5: VILLAGE CODE, CHAPTER 122: MASSAGE ESTABLISHMENT

CHAPTER 122: MASSAGE ESTABLISHMENTS¹

ARTICLE I. GENERAL PROVISIONS

§ 122.01 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any references to specific village employees within chapter 122 shall also include said employees' designees.

Employee. Any person other than a masseur or masseuse who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

Licensed massage therapist. An individual who holds a valid, current, State of Illinois license as a massage therapist to practice massage/massage therapy as defined herein and who is thereby entitled to exclusive use of the terms "massage," "massage therapy," and "massage therapist" in advertising and printed promotional material.

Massage establishment. Any establishment having a fixed place of business within the village where any person, firm, association, or corporation engages in, or carries on, or permits to be engaged in or carried on, massage or massage therapy as defined herein by one or more persons licensed by the State of Illinois as massage therapists.

Massage/massage therapy. A system of structured palpitation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands.

Masseur or masseuse. Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

Out-call massage service. Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

Permittee. The operator of a massage establishment.

Person. Any individual, copartnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

Sexual or genital area. Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(Ord. No. 7009, § 1, passed 10-16-14)

¹Editor's note(s)—Ord. No. 7009, § 1, passed October 16, 2014, amended chapter 122 in its entirety to read as herein set out. The former chapter 122, §§ 122.01, 122.02, 122.04, 122.10—122.12, 122.30—122.38, 122.99, pertained to similar subject matter. See Code Comparative Table for complete derivation.

§ 122.02 Permit required.

It shall be unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the village, the operating of a massage establishment as herein defined, without first having obtained a permit from the village.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.03 Filing and fee.

- (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 the fingerprints as required by subsection 122.10(B)(8) below, 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.
- (B) The Village Manager's office shall within five days of the receipt of an application for a massage establishment license, forward copies of such application to the Community Development Department, the Fire Department, and the Police Department. These departments shall, within 30 days after receipt of a copy of the application shall review and process the application information, as is appropriate relative to each respective department, and make written recommendations to the Village Manager's office concerning compliance with the codes, laws and ordinances that said departments administer.
- (C) Within 30 days of receipt of the recommendations of the aforesaid departments, the Village Manager's office shall notify the applicant that the application is granted, denied, or being held for further investigation. The period of such additional investigation shall not exceed an additional 30 days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, if any, the Village Manager's office shall advise the applicant in writing whether the application is granted or denied.
- (D) Whenever an application is denied, or held for further investigation, the head of the department requesting said denial or further investigation shall advise the applicant in writing of the reasons for such action. An application may be denied if it is found:
 - (1) That the operation, as proposed by the applicant, if permitted, would not have complied with all applicable laws, including but not limited to the building, health, planning, housing, zoning and fire codes of the village; or
 - (2) That the applicant and/or any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of:
 - (a) A felony;
 - (b) An offense involving sexual misconduct with children;
 - (c) Prostitution, soliciting for a prostitute, pimping or other offense opposed to decency and morality.

The Police Chief, at his/her discretion, may authorize the issuance of a permit to any person convicted of any of the crimes in subsections (A)(2)(a), (b) and (c) above, if he finds that such conviction occurred at least five years prior to the date of application, the applicant has had no subsequent convictions and the applicant has shown evidence of rehabilitation sufficient to warrant the public trust.

- (E) The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under

oath regarding the said application, or his or her refusal to submit to or cooperate with any inspection required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the village.

- (F) Every massage establishment permit issued pursuant to this chapter shall terminate one year from the last day of the month in which it is issued, unless sooner suspended or revoked. Thereafter, renewals of said permit shall be for a period of one year, unless sooner suspended or revoked. Notwithstanding the foregoing, a temporary permit may be issued, for less than a one-year period, pending the results of the processing of the fingerprints, at which time said non-temporary permit shall expire and a non-temporary permit shall either be issued or denied.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.04 Review by Village Manager.

The decision of any department head with regard to the denial, of any permit under this chapter shall be reviewable by the Village Manager, upon the written request of the applicant filed with the Village Manager within ten (10) days of such denial. The Village Manager, shall review evidence previously submitted to the village, the reports of the various department heads, and any additional evidence presented with the written request for review. The decision of the Village Manager, upon such review shall be a final appealable order.

(Ord. No. 7009, § 1, passed 10-16-14)

§§ 122.05—122.09 Reserved.

ARTICLE II. ESTABLISHMENT LICENSE

§ 122.10 Application.

- (A) The application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefore.
- (B) In addition to the foregoing, any applicant for a permit, including any partner or limited partner of a partnership applicant, and any officer or director of a corporate applicant and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:
- (1) Name and address.
 - (2) Written proof that the individual is at least 18 years of age.
 - (3) All residential addresses for the past three years.
 - (4) The applicant's height, weight, color of eyes and hair.
 - (5) The business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
 - (6) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or relocation.

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- (7) All criminal or village ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
 - (8) The fingerprints and photograph of the applicant.
 - (9) If the applicant is a corporation or limited liability company, or if a partner of a partnership applicant is a corporation or limited liability company, the name of the corporation or limited liability company shall be set forth exactly as shown in its articles of incorporation/establishing documents, and said corporation or limited liability company must be in good standing with the State of Illinois.
 - (10) The applicant's tax identification number.
 - (11) A statement as to whether the funding source for opening the establishment is the applicant, a state or federally regulated financial institution or some other person or entity. If the funding source is other than the applicant or a state or federally regulated financial institution, the name and address of the funding source shall be supplied.
 - (12) A certificate of insurance evidencing professional (malpractice) liability insurance, covering all masseurs and masseuses that will be working for the massage establishment, in an amount of not less than \$500,000.00 per occurrence.
- (C) The application for a permit to operate a massage establishment shall state the name of all of the licensed massage therapists who are employed to provide massage or massage therapy at the massage establishment. Said application shall be accompanied by copies of the licenses issued to said massage therapists.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.11 Issuance.

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.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.12 Revocation or suspension.

- (A) 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 Community Development Director 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.
- (B) Any violation of this chapter by any employee of the permittee including a masseur or masseuse shall be cause for suspension of the permit for not more than 30 days in the first instance. Any subsequent violation of this chapter by any employee of the permittee, including the masseur or masseuse, shall be cause for suspension or revocation of the permit.

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- (C) The Village Manager, before revoking or suspending any permit, shall give the permittee at least ten 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. In such cases, the charges shall be specific and in writing.

(Ord. No. 7009, § 1, passed 10-16-14)

§§ 122.13—122.29 Reserved.

ARTICLE III. FACILITIES AND OPERATIONS

§ 122.30 Necessary facilities.

- (A) No massage establishment shall be issued a permit, nor be operated, established, or maintained in the village unless an inspection by the Community Development Department and/or Fire Department reveals that the establishment complies with each of the following minimum requirements:
- (1) Construction of rooms used for toilets, tubs, steam baths, and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the building code of the village;
 - (2) All massage tables, bathtubs, shower stalls, steam or bath areas, and floors shall have surfaces which may be readily disinfected;
 - (3) Adequate bathing, dressing, and locker facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker, and massage room facilities shall be provided;
 - (4) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron;
 - (5) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas;
 - (6) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein;
 - (7) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels;
 - (8) The premises shall be equipped with a service sink for custodial services;
 - (9) A hand wash basin shall be provided in each room designated for massages;
 - (10) A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

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- (B) The Community Development Director and/or Fire Chief shall certify that the proposed massage establishment complies with all the requirements of this § 122.30, and that the premises meets all applicable codes and ordinances of the village relating to building, zoning, and fire safety. Said certification shall be filed with the Village Manager.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.31 Operating requirements.

All individuals in the village who are employed as a masseur or masseuse by a massage establishment or who otherwise administer massages or massage therapy as defined in this chapter, except where exempt under state law, shall, at all times, have a current, valid massage therapist license from the State of Illinois, and all massage establishments within the village shall, comply with the following requirements:

- (A) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- (B) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (C) All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment.
- (D) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (E) The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur, or masseuse.
- (F) It shall be unlawful for any person, knowingly, in a massage establishment, to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any other person.
- (G) No masseur or masseuse, employee, or operator shall perform, offer, or agree to perform any act which would require the touching of the patron's genital area.
- (H) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
- (I) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- (J) Eating in the massage work areas shall not be permitted. Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.
- (K) No masseur or masseuse shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the state certifies in writing that such person may be safely massaged, prescribing the conditions thereof.
- (L) Each masseur and masseuse shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.
- (M) Within 30 days of employment, massage establishments shall, for as long as they continue in business within the village provide the Village Manager's Office with copies of the licenses of all massage

therapists employed subsequent to the date on which application was made for the massage establishment's first issued permit.

Every massage establishment shall be required to have a certified massage therapist on the licensed premises at all times while massages are being performed.

(N) The hours of operation for massage establishments shall be limited to between 6:00 a.m. and 9:00 p.m.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.32 Out-call registration and service.

Any masseuse or masseur who provides any of the services listed in § 122.01 of this chapter at any hotel or motel must first register his or her name and permit number with the owner, manager, or person in charge of the hotel or motel. No "out-call massage service" may be operated other than by a licensed masseur or masseuse. All massages performed by an "out-call massage service" must be performed in the manner prescribed in § 122.31 of this chapter where applicable.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.33 Inspection.

The Police Department, Community Development Department and/or 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 purposes of determining that the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.34 Employment age restrictions.

It shall be unlawful for any owner, proprietor, manager, or other person in charge of any massage establishment to employ any person who is not at least 18 years of age.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.35 Reserved.

Editor's note(s)—Ord. No. 5551, adopted September 16, 2004, repealed § 122.35, which pertained to identification cards.

§ 122.36 Display and transfer of permit.

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. No permit for the operation of a massage establishment shall be transferable.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.37 Exemptions.

A massage establishment license shall not be required of establishments where persons engage in massage, massage therapy or similar practices but are not required to obtain a massage therapist license under Illinois law. (Ord. No. 7009, § 1, passed 10-16-14)

§ 122.38 Public nuisance.

Any building used as a massage establishment in violation of this chapter with the intentional knowing, reckless, or negligent permission of the owner thereof, or the agent of the owner managing the building, together with all fixtures and other property used in violation of this chapter are hereby declared to be a nuisance.

(Ord. No. 7009, § 1, passed 10-16-14)

§§ 122.39—122.98 Reserved.

§ 122.99 Penalty.

Any person who conducts a massage establishment without first obtaining a permit and paying a license fee to do so from the village, or who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine of not to exceed \$750.00. Anyone who knowingly aids and abets one or more persons not authorized to use the professional term "massage therapist" or employs persons not authorized to use the title "massage therapist" in the course of employment or who uses the term "massage," "massage therapy" or "massage therapist" in advertising or printed promotional material without authorization to do so under Illinois law shall be prosecuted for violation of the Massage Licensing Act (225 ILCS 57/1 et seq.) for which the first offense is a Class "A" misdemeanor and a second and any subsequent offense is a Class 4 felony.

(Ord. No. 7009, § 1, passed 10-16-14)

ORDINANCE NO. _____

**AN ORDINANCE GRANTING APPROVAL OF CONDITIONAL USE
PURSUANT TO SECTION 155.416(C)(23) OF THE LOMBARD ZONING ORDINANCE
TO ALLOW FOR A MASSAGE ESTABLISHMENT
LOCATED IN THE B4 CORRIDOR COMMERCIAL ZONING DISTRICT**

PC 23-20: 730 E. St. Charles Road

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois;

WHEREAS, the Subject Property as defined below is zoned B4; and,

WHEREAS, an application requests approval for a conditional use for a massage establishment; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on October 16, 2023 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the conditional use described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully 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 a conditional use is hereby granted for the Subject Property, as described in Section 2 below, pursuant to Title 15, Chapter 155, Section 155.416(C)(23) of the Zoning Ordinance for a massage establishment;

SECTION 2: This ordinance is limited and restricted to the property generally located at 730 E. St. Charles Road, Lombard, Illinois, and legally described as follows:

LOT 84 IN ROBERTSON'S ST CHARLES ROAD ADDITION TO WESTMORE, BEING A SUBDIVISION IN THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 39

NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED JULY 20, 1922 AS DOCUMENT NO. 157522 IN DUPAGE COUNTY, ILLINOIS.

PIN Number: 06-19-201-018 (the "Subject Property").

SECTION 3: The approvals set forth in SECTION 1 above shall be granted subject to compliance with the following conditions:

1. That this relief is limited to the operation of a massage establishment at 730 E. St. Charles Road. Any expansion, physical site improvement or alterations require approval through the Village.
2. That the operator of the massage establishment shall apply for and receive a massage establishment license, per the provisions of Section 122 of the Village Code, with said license and operation remaining in good standing;
3. That the petitioner shall develop the site in accordance with plans submitted as part of this request; and
4. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report, including but not limited to compliance with the comments from the Building Division; and
5. This approval shall be subject to the commencement time provisions as set forth within Section 155.103(F)(11).

SECTION 4: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed on first reading this _____ day of _____, 2023.

First reading waived by action of the Board of Trustees this _____ day of _____, 2023.

Passed on second reading this _____ day of _____, 2023.

Ayes: _____

Ordinance No. _____
Re: PC 23-20
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Nays: _____

Absent: _____

Approved this _____ day of _____, 2023.

Keith Giagnorio, Village President

ATTEST:

Elizabeth Brezinski, Village Clerk

Published in pamphlet from this _____ day of _____, 2023.

Elizabeth Brezinski, Village Clerk