

DECEMBER 15, 2014

Title

PC 14-38

Petitioner

Village of Lombard

Property Location

Village-wide

Approval Sought

Text amendment to Sections 155.802 (and any other relevant sections for clarity) of the Village of Lombard Zoning Ordinance to include the use of e-cigarettes, or “vaping,” as a principal use in the definition of smoking establishment.

Prepared By

Matt Panfil, AICP
Senior Planner

DESCRIPTION

An emerging retail market, the Village of Lombard has traditionally classified the retail sale of e-cigarettes in the same category as tobacco shops. However, with the recent opening of two (2) e-cigarette establishments, along with inquiries regarding the potential opening of other such establishments, staff has been notified that it is common practice for customers to use, or “vape,” e-cigarettes inside the structure.

While the Smoke Free Illinois Act does not regulate indoor vaping or the sale of e-cigarettes, staff finds that there is a significant difference between the land use impacts of the two activities. The retail sale of e-cigarettes is similar to the retail sale of tobacco which is conducive to a quick turnover of parking spaces as the customer consumes the product outside of the retail establishment. Smoking establishments are characterized by an assembly of people frequenting the business specifically to consume the product within the establishment, increasing the demand for parking as well as decreasing the turnover of parking spaces.

The proposed text amendment does not change the zoning district classifications for smoking establishments or retail tobacco stores either permitted by right or as a conditional use. Smoking establishments are still limited to a conditional use within the B4A Roosevelt Road Corridor District. Tobacco shops are still permitted by right within the B3 Community Shopping District, B4 Corridor Commercial District, B4A Roosevelt Road Corridor District, B5 Central Business District, and B5A Downtown Perimeter District.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

Fire Department:

The Fire Department notes that any establishment engaged in smoking or vaping activities that has either physical size or area to accommodate greater than forty-nine (49) persons shall be required to meet Fire and Life Safety code requirements for an Assembly Use Occupancy.

Private Engineering Services:

Private Engineering Services has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

Public Works:

The Department of Public Works has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

EXISTING & PROPOSED REGULATIONS

New Text ~~Deleted Text~~

§155.802 Rules and Definitions

SMOKING ESTABLISHMENT

is an establishment, which, as its principal business purpose, **or if the majority of the gross floor area**, is dedicated to the on-premises smoking **or vaping** of tobacco products or other legal substances, excluding medical cannabis, and **or** is regulated through the Illinois Smoke Free Act, 410 ICLS 82/1 et seq.

STANDARDS FOR TEXT AMENDMENTS

- 1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*

The proposed text amendment is generally applicable to all smoking establishments and is not property specific in any way. A conforming business can be operated at any well-suited property.

- 2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*

The intent of the proposed text amendment is to better define the zoning district regulations pertaining to smoking establishments. No changes to any of the specific zoning districts are proposed.

- 3. *The degree to which the proposed amendment would create nonconformity;*

Staff is unaware of any existing legal conforming uses that would be made nonconforming by the proposed text amendment.

- 4. *The degree to which the proposed amendment would make this ordinance more permissive;*

The proposed text amendment neither increases nor decreases the permissiveness for smoking establishments.

- 5. *The consistency of the proposed amendment with the Comprehensive Plan; and*

The proposed text amendment is consistent with the Comprehensive Plan as the change is simply an update to more clearly regulate an emerging market based on new technology.

6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*

The proposed text amendment is entirely consistent with existing village policy. E-cigarette-only retail sales are still classified as a tobacco store. Any establishment where the principal use is vaping by an assembly of persons is classified as a smoking establishment.

FINDINGS & RECOMMENDATIONS

Staff finds the proposed text amendment to be consistent with the objectives of the Zoning Ordinance. The proposed text amendment is also consistent with the intent of the Comprehensive Plan in general.

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of this petition:

Based on the submitted petition and the testimony presented, the requested text amendment **complies** with the standards required by the Village of Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 14-38.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

H:\CD\WORDUSER\PCCASES\2014\PC 14-38\PC 14-38_IDRC Report.docx