

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

 X 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: Timothy Sexton, Acting Village Manager
DATE: October 29, 2013 (B of T) Date: November 7, 2013
TITLE: PC 13-13: Text Amendments to the Zoning Ordinance (Medical Cannabis)
SUBMITTED BY: Department of Community Development *WA*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing the following text amendments to the Lombard Zoning Ordinance:

1. An amendment to Section 155.802, Rules and Definitions, (and any other relevant sections for clarity) of the Lombard Zoning Ordinance regarding the definition of "smoking establishment" and add provisions for "medical cannabis dispensing organization;" and
2. An amendment to Section 155.412, Office District Requirements, (C) the conditional use status to add provisions for "medical cannabis dispensing organization." (DISTRICTS - ALL)

The Plan Commission unanimously recommended approval of the petition.

Fiscal Impact/Funding Source:


Review (as necessary):
Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ 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: Timothy Sexton, Acting Village Manager

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

DATE: November 7, 2013

SUBJECT: PC 13-13: Text Amendments

Attached are the following items for consideration as part of the November 7, 2013 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 13-13;
3. Completed Standards for Text Amendments (included in the IDRC report); and
4. An Ordinance granting a text amendment to the Lombard Zoning Ordinance for the following two items:
 - 1) An amendment to Section 155.802, Rules and Definitions, (and any other relevant sections for clarity) of the Lombard Zoning Ordinance regarding the definition of “smoking establishment” and add provisions for “medical cannabis dispensing organization;” and
 - 2) An amendment to Section 155.412, Office District Requirements, (C) the conditional use status to add provisions for “medical cannabis dispensing organization.”

The Plan Commission unanimously recommended approval of the petition. **Please place this petition on the November 7, 2013 Board of Trustees consent agenda.**

Please let me know if you have any questions on the aforementioned materials.



VILLAGE OF LOMBARD

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Lombard, Illinois 60148-3926
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www.villageoflombard.org

November 7, 2013

Village President
Keith T. Giagnorio

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

Village Clerk
Sharon Kuderna

Subject: PC 13-13; Text Amendments to the Zoning District

Trustees

Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing the following text amendments to the Lombard Zoning Ordinance:

1. An amendment to Section 155.802, Rules and Definitions, (and any other relevant sections for clarity) of the Lombard Zoning Ordinance regarding the definition of "smoking establishment" and add provisions for "medical cannabis dispensing organization;" and
2. An amendment to Section 155.412, Office District Requirements, (C) the conditional use status to add provisions for "medical cannabis dispensing organization."

Chairperson Ryan asked for public comment, and, hearing none, he noted that the petition would be presented by Staff.

Ms. Ganser, Assistant Director of Community Development, presented the staff report, which was submitted to the public record in its entirety.

This summer Governor Quinn signed the Compassionate Use of Medical Cannabis Pilot Program Act. The law creates a four-year pilot medical marijuana program that will go into effect on January 1, 2014. This subject was discussed as a workshop at the last Plan Commission meeting.

The Act allows local units of government to establish regulations that provide for reasonable zoning regulations for the cultivation and dispensing of medical marijuana. It states that no unit of local government may regulate registered medical cannabis organizations other than provided for in this Act and may not unreasonably prohibit the cultivation, dispensing, and use of medical cannabis authorized by the Act. The Act provides extensive discussions as to the use, regulation and description of medical cannabis.

Acting Village Manager
Timothy Sexton

"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."

There are two potential new land uses from the Act: a registered cultivation center and a registered dispensary.

A registered cultivation center may not be located within 2,500 feet of the property line of a pre-existing public or private preschool, elementary school, secondary school, day school, day care center, day care home, group care home, part day child care facility, or area zoned for residential use. Based on the 2,500 foot buffer of the above-mentioned area, a cultivation center would not be permitted in Lombard per the Act's regulations.

According to the Act, registered dispensaries may not be located within 1,000 feet of the property line of a pre-existing public or private preschool, elementary school, secondary school, day care center, day care home, group day care home, or part day child care facility. Additionally, dispensaries may not be located in a house, apartment, condominium, or area zoned for residential use. The 60 dispensaries are to be located throughout Illinois to allow for patients reasonable access to dispensaries. Ms. Ganser referred to the map in the IDRC report showing where a dispensary could locate in Lombard per the Act's regulations based on the 1,000 feet buffers of the above-mentioned area.

Staff is proposing the following text amendments to the Zoning Ordinance to meet the Act provisions.

The first text amendment is in Section 155.802 – Rules and Definitions. Since this is an emerging land use the current Zoning Ordinance does not have a definition for a medical cannabis dispensing organization.

Second, staff would like to amend the definition of a smoking establishment. Although the State does not allow for medical cannabis to be smoked at smoking establishments, staff feels additional clarity could be needed.

Staff also proposes to amend Section 155.412 (C) – Conditional Uses within the O Office Zoning District to allow for Medical Cannabis Dispensing Organizations with a Conditional Use in the Office District.

Ms. Ganser concluded by noting staff has prepared the necessary responses to standards for text amendments and would recommend approval of the two text amendments.

Chairperson Ryan asked for public comment, and, hearing none, opened the meeting for comments among the Commissioners.

Commissioner Olbrysh questioned as how far the permitted establishments would extend on Highland Avenue, north of 22nd Street. He questioned if it would extend to DuPage Medical. Mr. Heniff replied it would extend that far.

On a motion by Commissioner Olbrysh and a second by Commissioner Sweetser, the Plan Commission voted 6 to 0 that the Village Board **approve** the text amendment associated with PC 13-13 in the Inter-Departmental Review Committee Report.

Respectfully,

VILLAGE OF LOMBARD

A handwritten signature in black ink, appearing to read "Donald Ryan". The signature is fluid and cursive, with the first name "Donald" being more prominent than the last name "Ryan".

Donald Ryan, Chairperson
Lombard Plan Commission

c. Lombard Plan Commission

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OCTOBER 21, 2013

Title

PC 13-13

Petitioner

Village of Lombard

Property Location

All O Office Zoning Districts

Approval Sought

The Village requests text amendments to Section 155.412 (C) and Section 155.802 (and any other relevant sections for clarity) of the Village of Lombard Zoning Ordinance.

Prepared By

Jennifer Ganser, Assistant Director

DESCRIPTION

On August 1, 2013, Governor Quinn signed HB 1, the Compassionate Use of Medical Cannabis Pilot Program Act (PA 098-0122). The law creates a four-year pilot medical marijuana program that will go into effect on January 1, 2014. It was created with a "sunset" provision so that if the legislature does not renew the program or create a new law the program will cease to operate four years from the date it went into effect.

This allows for individuals with thirty-three serious diseases including cancer, HIV and multiple sclerosis to obtain a special ID card allowing them to buy limited amounts, up to two-and-a-half ounces during a 14 day period, of medical marijuana from one of 60 state-licensed dispensaries.

The Act also allows local units of government to establish regulations that provide for reasonable zoning regulations for the cultivation and dispensing of medical marijuana. It states that no unit of local government may regulate registered medical cannabis organizations other as provided for in this Act and may not unreasonably prohibit the cultivation, dispensing, and use of medical cannabis authorized by the Act. The Act provides extensive discussions as to the use, regulation and description of medical cannabis.

Cultivation Centers

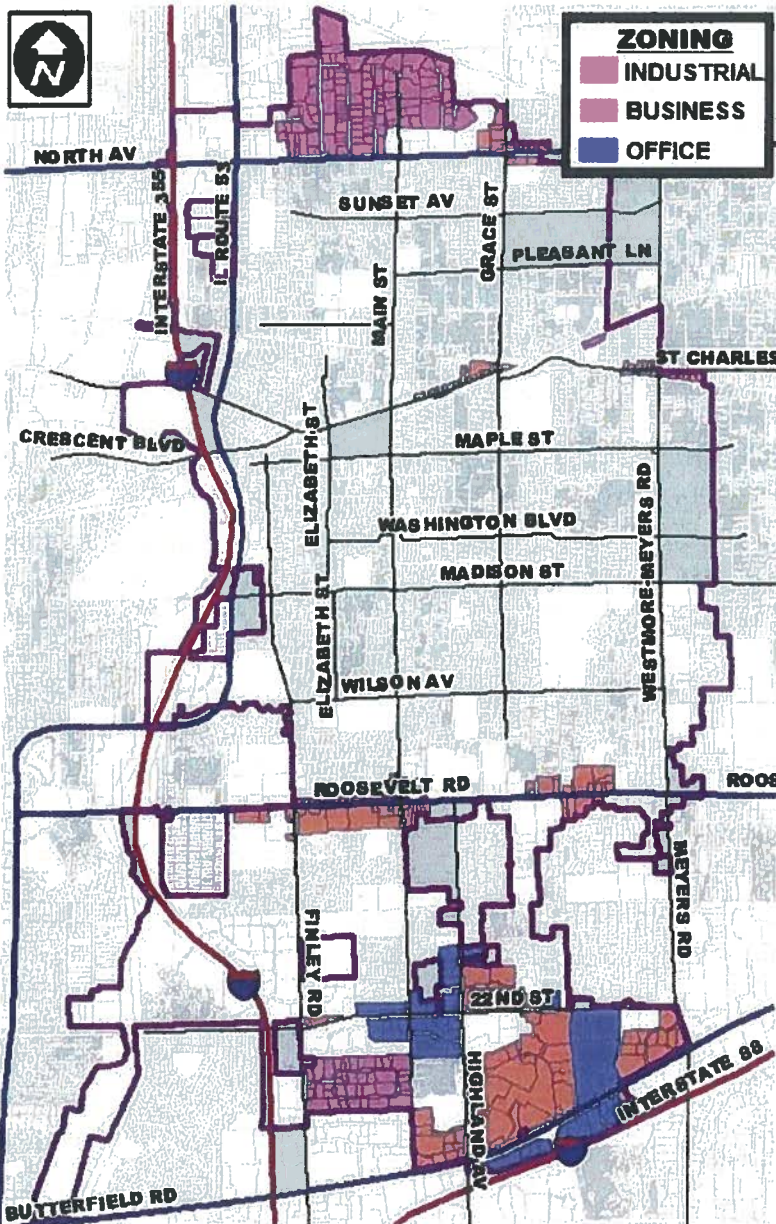
A registered cultivation center may not be located within 2,500 feet of the property line of a pre-existing public or private preschool, elementary school, secondary school, day school, day care center, day care home, group care home, part day child care facility, or area zoned for residential use. The Act will allow for 22 centers in the State. Patients cannot grow their own medical cannabis. Only state-regulated cultivation centers would be allowed to grow cannabis.

Using Geographic Information Systems (GIS) mapping software, staff was able to create 2,500 foot buffers of the above-mentioned area to determine a cultivation center would not be permitted in Lombard per the Act's regulations.

Dispensaries

According to the Act, registered dispensaries may not be located within 1,000 feet of the property line of a pre-existing public or private preschool, elementary school, secondary school, day care center, day care home, group day care home, or part day child care facility. Additionally, dispensaries may not be located in a house, apartment, condominium, or area zoned for residential use. The 60 dispensaries are to be located throughout Illinois to allow for patients reasonable access to dispensaries. Dispensaries will be licensed by the State and subject to rules by the Department of Financial and Professional Regulation. All dispensary staff will undergo a background check.

Using GIS mapping software, staff was able to create 1,000 feet buffers of the above-mentioned area to determine where a dispensary could locate in Lombard per the Act's regulations.



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

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 REGULATIONS

MEDICAL CANNABIS DISPENSING ORGANIZATION

None

SMOKING ESTABLISHMENT

An establishment, which, as its principal business purpose, is dedicated to the on-premises smoking of tobacco products or other legal substances and is regulated through the Illinois Smoke Free Act, 410 ILCS 82/1 et seq.

PROPOSED TEXT AMENDMENTS

The following text amendments to the Zoning Ordinance would meet the Act provisions. Since this is an emerging land use the current Zoning Ordinance does not have a definition for a medical cannabis dispensing organization. Although the State does not allow for medical cannabis to be smoked at smoking establishments, staff feels additional clarity could be needed.

Section 155.802 – Rules and Definitions

MEDICAL CANNABIS DISPENSING ORGANIZATION

A facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and education materials to registered qualifying patients.

SMOKING ESTABLISHMENT

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

Section 155.420 (C) – Conditional Uses within the O Office Zoning District

Medical Cannabis Dispensing Organization: Conditional Use

Staff proposes to amend Section 155.412 (C) – Conditional Uses within the O Office Zoning District to allow for Medical Cannabis Dispensing Organizations with a Conditional Use. The below map show the locations in

The proposed amendments would not create nonconformities as the proposed regulations are an addition to current conditional uses and not an alteration or deletion of existing uses.

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

The proposed amendments will make the ordinance more permissive by allowing an additional conditional use in the O Office District.

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

Staff finds that the proposed amendments would be consistent with the Comprehensive Plan.

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

The Village has a history of amending its Zoning Ordinance to address evolving circumstances presented by petition or by recognizing a desire to amend the code to address desired code regulations. The proposed amendments are consistent with established Village policy in this regard. As this is an emerging land use staff feels it is important to amend the Zoning Ordinance as such.

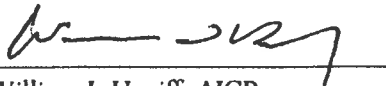
FINDINGS & RECOMMENDATIONS

Staff has prepared the requisite responses to standards for text amendments. Staff finds that the proposed amendments are consistent with the objectives of the Zoning Ordinance. The amendments are 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 amendments **comply** 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 13-13.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

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ORDINANCE _____

**AN ORDINANCE APPROVING TEXT AMENDMENTS
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(PC 13-13; Text Amendments to the Zoning Ordinance)

WHEREAS, the Village of Lombard maintains a Zoning Ordinance which is found in Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Zoning Ordinance and make necessary changes; and

WHEREAS, as the Director has identified and recommends text amendments to the Zoning Ordinance as set forth herein; and

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on October 21, 2013 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 text amendments 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 Title 15, Chapter 155, Section 412 (C), of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

**§155.412 (C) – CONDITIONAL USES WITHIN THE O OFFICE DISTRICT
REQUIREMENTS**

C. Conditional Uses

Subject to the provisions of Section 155.103 (F) of this Ordinance, the following conditional uses may be allowed:

1. Banks and Financial Institutions
2. Clubs and lodges, private
3. Colleges or universities (non-boarding)
4. Convalescent and nursing homes, including extended medical care facilities
5. Day care centers
6. Funeral Homes
7. Hospitals
8. Hotels and Motels
9. Medical Cannabis Dispensing Organization
10. Off-site parking, in conformance with Section 155.602 (A) (3) (b) of this Ordinance
11. Outside service areas for other permitted or conditional uses in this district
12. Parking and structures, as the principal use of the property
13. Parking lots, open, as the principal use of the property
14. Planned developments in conformance with Section 155.500 of this Ordinance
15. Public recreational and social facilities, as defined in the R1 District
16. Public utility and municipal service uses
17. Restaurants including entertainment, dancing, and/or amusement devices when conducted as part of the restaurant operations and secondary to the principal use.
18. Restaurants, no including entertainment, dancing, and/or amusement devices
19. Schools, Private, Full-Time: Elementary, Middle, and High
20. Schools, Public, Full-Time: Elementary, Middle, and High

21. Trade Schools

22. Accessory uses and buildings, incidental to and on the same zoning lot as the principal use, which are constructed and operated in conformance with Section 155.210 of this Ordinance.

SECTION 2: That the following definitions set forth within Title 15, Chapter 155, Section 802, of the Code of Lombard, Illinois, is hereby amended to read as follows:

155.802 RULES AND DEFINITIONS

MEDICAL CANNABIS DISPENSING ORGANIZATION

A facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and education materials to registered qualifying patients.

SMOKING ESTABLISHMENT

An establishment, which, as its principal business purpose, is dedicated to the on-premises smoking of tobacco products or other legal substances, excluding medical cannabis, and is regulated through the Illinois Smoke Free Act, 410 ILCS 82/1 et seq.

SECTION 3: 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 _____, 2013.

Passed on second reading this ____ day of _____, 2013.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2013.

Keith Giagnorio, Village President

ATTEST:

Ordinance No. _____

Re: PC 13-13

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Janet Downer, Deputy Village Clerk

Published by me in pamphlet form this ____ day of _____, 2013.

Janet Downer, Deputy Village Clerk