


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

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

TO : PRESIDENT AND BOARD OF TRUSTEES
FROM: Scott R. Niehaus, Village Manager
DATE : September 11, 2019 **(BOT) Date:** September 19, 2019
SUBJECT: PC 19-19, Text Amendment to the Zoning Ordinance: Cannabis

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

BACKGROUND/POLICY IMPLICATIONS:

The Village Board met for a workshop session on July 31, 2019 to discuss recreational cannabis. The Board directed staff to review the matter with the Plan Commission as a possible text amendment to allow recreational cannabis sales in the Village as a permitted use or conditional use, depending on the zoning district.

The Plan Commission recommended approval of this petition by a vote of 7-0, subject to the certain amendments. Please place this petition on the September 19, 2019, Board of Trustees agenda under Items for Separate Action.

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: September 19, 2019

SUBJECT: **PC 19-19, Text Amendment to the Zoning Ordinance: Cannabis**

The Village Board met for a workshop session on July 31, 2019 to discuss recreational cannabis. The Board directed staff to review the matter with the Plan Commission as a possible text amendment to allow recreational cannabis sales in the Village as a permitted use or conditional use, depending on the zoning district.

Below is a chart showing what the Village Board discussed on July 31st and what the Plan Commission recommended on August 29th. The Plan Commission differed from the Board on the B3 and B4 zoning districts by recommending it should be a conditional use. The Plan Commission also differed from the Board on the B5 and B5A zoning districts by recommending it should be prohibited.

Zoning District	Proposed Designation by Village Board at the July workshop session	Plan Commission Recommendation
O	Permitted	Permitted
I	Permitted	Permitted
B1	Conditional	Conditional
B2	Conditional	Conditional
B3	Permitted	Conditional
B4	Permitted	Conditional
B4A	Permitted	Permitted

B5	Conditional	Prohibited
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B5A	Conditional	Prohibited
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Please find the following items for Village Board consideration as part of the September 19, 2019, Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 19-19; and
3. An Ordinance granting text amendments to the Lombard Zoning Ordinance regarding cannabis, as recommended by the Plan Commission on August 29th.

The Plan Commission recommended approval of this petition by a vote of 7-0, subject to the aforementioned amendments. Please place this petition on the September 19, 2019, Board of Trustees agenda under Items for Separate Action. Staff will have a presentation prepared on the matter.

Should the Village Board wish to vote on the matter as discussed on the July 31st workshop, or differ in any way from the Plan Commission recommendation, they can continue the matter to the October 3, 2019 Village Board meeting. Staff would then prepare an amended ordinance for consideration on October 3rd.



VILLAGE OF LOMBARD

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September 19, 2019

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees
Dan Whittington, Dist. 1
Anthony Puccio, Dist. 2
Reid Foltyniewicz, Dist. 3
Andrew Honig, Dist. 4
Daniel Militello, Dist. 5
William "Bill" Ware, 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 19-19, Text Amendments, Cannabis

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, the Village of Lombard, is requesting text amendments to the following Section of Village Code, and other relevant sections for clarity, all in order to establish provisions to provide for the sale of cannabis as a land use in the Village:

1. Amend Section 155.412(B) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of permitted uses in the O Office District; also delete Section 155.412 (C)(9) which established medical cannabis dispensing organization as a conditional use in the O Office District;
2. Amend Section 155.413(C) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of conditional uses in the B1 Limited Neighborhood Shopping District;
3. Amend Section 155.414(C) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of conditional uses in the B2 General Neighborhood Shopping District;
4. Amend Section 155.415(C) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of permitted uses in the B3 Community Shopping District;
5. Amend Section 155.416(C) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of permitted uses in the B4 Corridor Commercial Shopping District;
6. Amend Section 155.417(G)(1)(a) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of permitted uses in the B4A Roosevelt Road Corridor District;
7. Amend Section 155.418(C) of the Village Code to add "Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto" to the list of conditional uses in the B5 Central Business District; also amend Section 155.418 (B) to read "Permitted Uses: Excluding cannabis dispensing facilities, any use permitted in the B3 District shall be permitted in the B5 District;

8. Amend Section 155.419(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of conditional uses in the B5A Downtown Perimeter District;
9. Amend Section 155.420(B) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of permitted uses in the I Limited Industrial District;
10. Amend Section 155.802 of the Village Code (Rules and Definitions) establishing definitions for cannabis dispensing facility, cultivation centers, craft growers, processing organizations, and transporting organizations consistent with the definitions found in the Cannabis Regulation and Tax Act;
11. Delete the definition for Medical Cannabis Dispensing Organization in Section 155.802;
12. Amend the definition for Smoking establishment in Section 155.802 to delete the word “medical” therefore prohibiting all types of cannabis in a Smoking establishment; and
13. Create a new Section 155.225: Cannabis Establishments:
 - a. Establish buffer requirements for Cannabis Dispensing Facility establishments from a public or private elementary or secondary school, day care center, day care home, group day care home or part day care facility or another lawfully established cannabis dispensing facility. (Buffer provisions are not proposed as part of the IDRC recommendation, but was advertised as a potential text amendment in the event the Plan Commission and Village Board sought such provisions)
 - b. Regulations to specifically exclude cultivation centers, craft growers, processing organizations and transporting organizations as a permitted or a conditional use activity.
 - c. Regulations to specifically preclude on-site consumption of cannabis as part of any permitted or conditional land use activity.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on August 29, 2019. Sworn in to present the petition was William Heniff, Community Development Director and Jennifer Ganser, Assistant Director.

Mr. Heniff read the Plan Commission rules and procedures. Commissioner Sweetser asked a clarification question on the potential changes in the Office District. Mr. Heniff noted that staff is proposed to delete the conditional use of a medical cannabis dispensary and add a permitted use of a cannabis dispensary.

Chairman Ryan read the Plan Commission procedures and asked if anyone other than the petitioner intended to cross examine and, hearing none, proceeded with the petition.

Ms. Ganser presented the staff report, which was submitted to the public record in its entirety along with the attached six exhibits and a copy of the DuPage Mayor and Managers Conference (DMMC) municipal survey that was emailed to the Commissioners. Ms. Ganser reviewed a PowerPoint presentation. She noted that on January 1, 2020 cannabis will be legal in Illinois. She discussed the Village Board Workshop on July 31, 2019 and communication efforts for this petition. She then discussed the role of the Plan Commission and will and will not be reviewed. She reviewed specified zoning districts and if cannabis should be a permitted or conditional use based on the Workshop discussion and staff research. Districts where staff is recommending a permitted use include: B3, B4, B4A, O, and I. Districts where staff is recommending a conditional use include: B1, B2, B5, and B5A. Next, she reviewed two potential buffers: 100’ and 1,000’. She noted that a 1,000’ buffer was very restrictive and included most of the downtown. She said there is a State buffer of 1,500’ between recreational cannabis dispensaries and municipalities cannot decrease this buffer. Staff recommends no buffers and to consider the land use relationships as part

of a conditional use process where warranted. She then reviewed additional zoning considerations such as definitions and a new Code section on general provisions. She said staff supports the text amendments. The next step after the Plan Commission would be consideration by the Village Board on September 19, 2019.

Chairman Ryan asked if any person would like to speak in favor or against this petition, or for public comment.

Mr. Douglas LaSota spoke and said he believes the use should be a conditional use and not a permitted use. Therefore, the Plan Commission and Board could review each one. He also noted the State of Illinois has a buffer for advertising and signage of 1,000 feet from schools. Attorney Guisinger said that buffer applies to an advertisement like a billboard, and not a business identification sign.

Mr. Chris Tinnon said he also spoke at the Board Workshop meeting and thanked the Plan Commission for reviewing the issue; he asked why staff isn't open to cultivation centers or craft growers. Ms. Ganser said she hasn't received any inquiries on those two uses. She noted that Lombard may not have many buildings large enough to support a cultivation center. She said that if the industry changes or a business is interested, a future text amendment can be brought forward to allow for new uses.

Mr. Shawn Smith said he is from a State with recreational cannabis and has watched the industry grow. He asked where the tax revenue would be allocated. Ms. Ganser said that is a future question for the Village Board and Finance Committee.

Commissioner Burke asked how parking would be regulated. Mr. Heniff said we would follow our standard of 4 parking spaces per 1,000 square feet. Commissioner Burke said he doesn't object to buffers. He said the use should be prohibited in the B5/downtown as the buildings are very close to one another and parking could be an issue.

Commissioner Sweetser said she agreed with Commissioner Burke. Commissioner Olbrysh said the use should be a conditional use so that it's reviewed; he said North Ave and Roosevelt Rd seem to be the best locations.

Chairman Ryan asked if someone from out of state can purchase cannabis and Ms. Ganser said yes, but half the amount.

Commissioner Olbrysh asked if there are issues with it being a cash business. Ms. Ganser said she believes it is mostly cash based and the State requires a level of security.

Commissioner Sweetser asked if a purchaser would be able to purchase the max amount in different locations. Mr. Heniff said the State law gives amount that can be on a person at one time and said that is a law enforcement issue. Chairman Ryan said it is similar to fireworks and Mr. Heniff agreed.

Commissioner Sweetser said perhaps the use should be a conditional use.

Chairman Ryan asked if the State will regulate the number of dispensaries. Attorney Guisinger said yes, the State has established a number per region and has a buffer between such license holders. Mr. Heniff

said there will be 47, therefore only a few municipalities will have such a business. Chairman Ryan said this won't be like a corner liquor store and perhaps we would want the use permitted in some areas.

Commissioner Burke proposed cannabis dispensaries as a permitted use in the Industrial District and B4A/Roosevelt Road District. Commissioner Flint said he would be ok with the use as permitted in the Office District and Commissioner Burke agreed.

Commissioner Mrofcza asked about buffers and if a liquor store could sell cannabis. Ms. Ganser said only those with licenses can sell and Attorney Guisinger said liquor license holders are prohibited from selling cannabis per the State law.

Commissioner Burke proposed the use as permitted in O, I, and B4A, and prohibited in B5 and B5A. Commissioner Olbrysh said there are strong feelings on all sides and asked if the use should be conditional only. Commissioner Burke said these are the districts he believes we would prefer to see them. He noted as a developer, a developer may pick a permitted use district over a conditional use district, if available, to save time. He said this method eliminates the need for a buffer. Commissioner Mrofcza asked why prohibit the B5 and B5A districts. Commissioner Burke said the density of people and traffic in the downtown. He noted that the surrounding communities may be coming into Lombard, should we have this type of business. The O, I, and B4A districts have more parking and are easier to get to. Commissioner Flint said he agrees. Commissioner Olbrysh said it should be a conditional use and we could change it later. Commissioner Flint said we may only get one such business. Commissioner Olbrysh said some communities choose to opt-out. Ms. Ganser referred to the table in the staff report and the DMMC survey. Commissioner Giuliano said she agrees with Commissioner Burke and that we need to remain competitive and attract new businesses.

Commissioner Burke reviewed the changes. The use would be a permitted use in the O, I, and B4A districts; conditional use in B1, B2, B3, and B4; prohibited use in B5 and B5A; the definitions and general provisions sections are ok as noted; no buffers are required.

On a motion by Commissioner Burke, and a second by Commissioner Flint, the Plan Commission voted 7-0 to recommend that the Village Board approve the amended petition associated with PC 19-19.

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

c. Lombard Plan Commission

ORDINANCE _____

AN ORDINANCE AMENDING
TITLE XV., CHAPTER 155 OF THE LOMBARD VILLAGE CODE
IN REGARD TO THE ZONING REGULATIONS
APPLICABLE TO CANNABIS BUSINESS ESTABLISHMENTS

WHEREAS, the Village of Lombard (the “Village”) maintains a Zoning Code which is found in Title XV., Chapter 155 of the Lombard Village Code (the “Village Code”); and

WHEREAS, the Village has enacted Village Code regulations for the purpose of improving and protecting the public health, safety and welfare of the residents of the Village; and

WHEREAS, the State of Illinois enacted the Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq.* (the “Act”), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use cannabis, which became effective June 25, 2019; and

WHEREAS, pursuant to the Act, the Village may enact reasonable zoning regulations or resolutions not in conflict with the Act, regulating cannabis business establishments, including rules governing the time, place, manner and number of cannabis business establishments, and minimum distance limitations between cannabis business establishments and locations the Village deems sensitive; and

WHEREAS, the President and Board of Trustees of the Village (the “Corporate Authorities”) deem it reasonable to periodically review said Zoning Code and make necessary changes thereto; and

WHEREAS, a public hearing, to consider text amendments to the Zoning Code, relative to cannabis business establishments, as set forth below, was conducted by the Village’s Plan Commission (the “Plan Commission”) on August 29, 2019, pursuant to appropriate and legal notice; and

WHEREAS, the Plan Commission has filed its recommendations with the Corporate Authorities recommending approval of the Zoning Code text amendments as set forth below; and

WHEREAS, the Corporate Authorities 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 XV., Chapter 155, Section 155.412(B) of the Lombard Village Code is amended as follows:

- A. Current subsection (5) is relabeled as subsection (6).
- B. A new subsection (5) is hereby added thereto, to read in its entirety as follows:

“(5) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 2: That Title XV., Chapter 155, Section 155.412(C) of the Lombard Village Code is hereby amended by repealing subsection (9) thereto, and relabeling current subsections (10) through (22) as subsections (9) through (21), respectively.

SECTION 3: That Title XV., Chapter 155, Section 155.413(C) of the Lombard Village Code is amended as follows:

A. Current subsection (11) is relabeled as subsection (12).

B. A new subsection (11) is hereby added thereto, to read in its entirety as follows:

“(11) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 4: That Title XV., Chapter 155, Section 155.414(C) of the Lombard Village Code is amended as follows:

A. Current subsection (26) is relabeled as subsection (27).

B. A new subsection (26) is hereby added thereto, to read in its entirety as follows:

“(26) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 5: That Title XV., Chapter 155, Section 155.415(C) of the Lombard Village Code is amended as follows:

A. Current subsections (31) and (32) are relabeled as subsections (32) and (33), respectively.

B. A new subsection (31) is hereby added thereto, to read in its entirety as follows:

“(31) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 6: That Title XV., Chapter 155, Section 155.416(C) of the Lombard Village Code is amended as follows:

A. Current subsection (35) is relabeled as subsection (36).

B. A new subsection (35) is hereby added thereto, to read in its entirety as follows:

“(35) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 7: That Title XV., Chapter 155, Section 155.417(G)(1)(a) of the Lombard Village Code is amended by adding a new subsection (xlvii) thereto, which shall read in its entirety as follows:

“(xlvii) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 8: That Title XV., Chapter 155, Section 155.420(B) of the Lombard Village Code is amended as follows:

- A. Current subsection (16) is relabeled as subsection (17).
- B. A new subsection (16) is hereby added thereto, to read in its entirety as follows:

“(16) Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto.”

SECTION 9: That Title XV., Chapter 155, Section 155.802 of the Lombard Village Code is amended as follows:

- A. The following new definition shall be added thereto:

“*Cannabis Dispensing Facility* means a “dispensing organization,” as defined in the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1 *et seq.*), as amended, or a “medical cannabis dispensing organization,” as defined in the Illinois Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 *et seq.*), as amended, and is operated in strict compliance with State law, and the regulations promulgated thereunder, applicable thereto.”

- B. That the definition of “Medical Cannabis Dispensing Organization,” as contained therein, is hereby repealed.
- C. That the definition of “Smoking Establishment,” as set forth therein, is revised to read in its entirety as follows:

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

SECTION 10: That Title XV., Chapter 155 of the Lombard Village Code is amended by adding a new Section 155.225 thereto, which shall read in its entirety as follows:

“§ 155.225 – Cannabis Business Establishments.

- (A) Pursuant to the authority granted to the Village by the Illinois Cannabis Regulation and Tax Act (410 ILCS 705/1 *et seq.*), as amended, cultivation centers, craft growers, infuser organizations, processing organizations and transporting organizations, as defined in the Illinois Cannabis Regulation and Tax (410 ILCS 705/1 *et seq.*), as amended, are prohibited as a permitted or conditional use in all zoning districts; and

(B) The on-site consumption of cannabis at a Cannabis Dispensing Facility, that exists as a permitted or conditional use within the zoning district in which it is located, is prohibited.”

SECTION 11: 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 _____, 2019.

First reading waived by action of the Board of Trustees this ____ day of _____, 2019.

Passed on second reading this ____ day of _____, 2019, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this ____ day of _____, 2019.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published in pamphlet from this ____ day of _____, 2019.

Sharon Kuderna, Village Clerk