



PZC CASE NUMBER:	<u>PZC 19-027</u>
TYPE:	<u>ZONING</u>
	<u>TEXT</u>
	<u>AMENDMENT</u>

Village Board Memorandum March 25, 2021

DISCUSSION ITEM for Village Board Consideration:

A request from the Village of Westmont regarding the following proposed Zoning Ordinance text amendments:

- A. Text amendment to Appendix A, Article XIV-Definitions; Article VII, Section 7.03 Permitted and Special Uses in the Business Districts, Section 7.07 Permitted and Special Uses in the C-1 District; and Article VIII, Sections 8.03 Permitted and Special Uses in the M District, and Sections 8.12, and 8.13 Permitted and Special Uses in the O/R Districts, to create zoning definitions and use table regulations for 'massage therapy establishments', 'medical or dental clinics', and 'health club and fitness centers'.

Planning and Zoning Commission Recommended Action on January 8, 2019:

Recommended approval.

I. Basis of Recommendation

A. Background

This item was presented to the Village Board on February 27, 2020, after the Planning and Zoning Commission voted to recommend approval on January 8, 2020. The Village Board considered the item and approved the motion. However, while Exhibit "A" addressed the definitions and use tables related to the amendment, the final ordinance did not incorporate the use tables portion. Therefore, the item needs to be presented to the Village Board for re-approval.

The term Physical culture and health services is currently defined in the Village's Zoning Code. However, there are no provisions for these uses in the various use tables, either as permitted uses or as special uses.

The current definition of this catch-all term includes activities conducted by licensed physicians as well as full service health clubs providing bodybuilding and weight-reducing equipment, swimming, gymnasium and locker facilities, but does not include massage parlors, leisure spas or public baths. However, the Village issues licenses for massage therapy establishments, as therefore, a category for massage therapy establishments is being created alongside a separation of facilities geared towards health and fitness, and facilities geared towards licensed physicians in medical clinical settings.

The Village currently regulates massage therapy establishments through Business Licensing Chapter 22, Article XVII. The Zoning Ordinance is largely silent on regulations related to the location of these establishments in the various business and commercial districts in the Village. Due to the lack of zoning district provisions for massage therapy establishments in the Village Code (Appendix A), as well as various requests for zoning reviews of massage services establishments in the Village, the Community Development Department has reviewed these provisions in the Village Code with other Village staff in an effort to provide for regulations governing the location of these establishments, while ensuring compliance with current State law.

Further, with many national and regional reputable massage businesses now in operation, further impetus exists to update these provisions of the Village Code as these and similar businesses look to locate in the Village.

Additional Recommendations:

Following adoption of these zoning rules, staff recommends a thorough review process with other Village staff, such as the Assistant Liquor Commissioner, who is responsible for background checks for individuals applying for various licenses during the business licensing process, to include consolidating all non-zoning Village Code provisions that address massage therapy establishments into Article XVII of the Village Code, as well as clarifying and updating the license application process.

The main changes recommended to be made in the near future in order to address Illinois law would be the removal of the provisions in the local Village Code regulating individual massage therapists, as this is now done at the State level. For example, with regard to the license application process, under these updated provisions, the various Village departments will be reviewing the business operation and the premises. Licensing would then provide a recommendation to the Village Board for review and issuance of the license to the business, if approved.

B. Critical Issues

The proposed Zoning Text Amendments address deficiencies within the zoning ordinance that do not recognize or provide adequate regulations for certain types of businesses. The proposed rules expand massage and similar establishments within the community, differentiate between similar, though distinct, uses, and could require them to obtain special use permits in the business and manufacturing districts to allow review and scrutiny of such businesses, if warranted. Massage therapy establishments would not be allowed by right in the Commercial Districts, except as accessory uses to other primary uses, such as Fitness Centers and Medical/Dental Clinics.

C. Policy

Although the primary aim in the various business and commercial districts is to offer retail goods and enhance the tax base, it is increasingly important to provide for service facilities, whether on the ground or above ground stories. There are at least three reasons for this policy:

1. The retail landscape is rapidly changing due to macro and micro economic changes due to societal upheavals related to health and wellness care, with a tipping point towards delivery services and online shopping and away from brick and mortar shopping.
2. Encouraging service uses on floors other than ground floors provides potential hardships in a variety of ways, not the least of which relates to the cost of constructing a second story where a single story tenant or principal use is proposed, including elevators, bearing walls, increased square footage requirements, ADA accessibility, and other similar factors.
3. Encouraging service sector businesses to locate amidst retailers and restaurants enhances foot traffic and creates a synergy that increases the likelihood of Westmont becoming a destination for these services, while enabling the secondary capture of these outside patrons to local bars, restaurants and retailers.

D. Legal

Notification: Legal notice was published in the Suburban Life on December 19, 2019 as required by State Statutes.

Other Required Actions: Village Board action is required for these proposed Ordinance Amendments. The Zoning Text Amendment came before the Planning and Zoning Commission for a vote on January 8, 2019, followed by a unanimous vote to approve recommendation.

Code Reference: Appendix A, Article XIV-Definitions; Article VII, Section 7.03 Permitted and Special Uses in the Business Districts; Section 7.07 Permitted and Special Uses in the C-1 District; and Article VIII, Sections 8.03 Permitted and Special

Uses in the M District, and Sections 8.12, and 8.13 Permitted and Special Uses in the O/R Districts.

Prior related PZC Cases:

There was a Zoning code amendment for massage therapy in 1999, but it was withdrawn by the Planning and Zoning Commission on July 14, 1999.

29 - 31 North Cass Avenue PZC #14-028 - Special use for medical clinic on ground floor, parking variance (and waiver from fee in lieu), development permit - Approved

6125 South Cass Avenue PZC #15-015 - Special use to operate a medical office in the C-1 Commercial Business District, parking variance - PZC approved; Village Board Denied

301-319 Ogden - PZC #19-005 - Site plan review, Rezoning, Plat of Consolidation - Approved

II. Attachments and References

1. See Exhibit A for draft language.

III. Principal Parties Expected at Meeting

1. Community Development Director, Village of Westmont

Exhibit "A"

Sec. 7.03. - Permitted uses and special uses in business districts.

		B-1			B-2		
	...						
(58)	Health clubs, tanning spas <u>Fitness centers/health clubs</u>	— P	S	2, 12	P	—	
	...						
(80)	Mail order houses	—	—		P	—	
	<u>Massage therapy</u>	P			P		

	<u>establishment¹</u>						
(81)	Meat markets	—	—		P	—	
	<u>Medical and dental clinics</u>	<u>P</u>			<u>P</u>		
(82)	Medical, dental, health, orthopedic clinics, located on any floor other than ground floor	P			P	—	
(82a)	Medical, dental, health, orthopedic clinics, located on ground floor	—	S	12	P		
(83)	Microbrewery and		—			S	11

¹(A) They have obtained required state and local licenses and certifications to duly operate as a massage therapy establishment.
(B) Prior to occupancy, a certificate of zoning compliance is applied for and received.
(C) All other applicable codes and ordinances are met.
(D) The massage therapy establishment is subject to an initial building inspection by the village prior to occupancy, and annual inspections thereafter.

	brewpubs						
	...						
(107)	Reserved—Physical culture and health services (see definition)						

Sec. 7.07. - Permitted and special uses in the C-1 district.

		C-1	
	...		
(53)	Medical dental health, orthopedic clinics, located on any floor other than ground floor	P	—
(53)	<u>Medical and dental clinics</u>	<u>P</u>	—

	...		
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Sec. 8.03. - Permitted and special uses in manufacturing district.

...		
	<u>Fitness Centers/Health Clubs</u>	<u>P</u>		
(9)	Fuel and ice sales and storage.	—	S	

Sec. 8.12. - Permitted uses in the office/research district.

Uses permitted in the O/R office/research district shall include the following:

- (A) Offices for administrative, business, executive, professional, research or similar organizations.
- (B) Research (and design) laboratories.
- (C) Religious institutions.
- (D) Medical and dental clinics
- (E) Accessory uses to the above uses, including, but not limited to:
 - (a) Off-street parking and loading as required in article X.
 - (b) Signs as regulated in article XI.
 - (c) Reserved.
 - (d) Antennas attached to any building or structure which is four or more stories in height, not to exceed ten percent of the height of the building or structure.
 - (e) Video gaming. (See definition)
 - (f) Fitness Centers/Health Clubs
- ~~(F) Special uses.~~

- ~~(a) Full service stand-alone restaurants seating no less than 200 persons, and offering no drive-through service.~~
- ~~(b) Hotels.~~
- ~~(c) Freestanding antennas and towers of any kind, as a primary or accessory use, subject to the restrictions set forth in section 4.05(E)(31).~~

Sec. 8.13. - Special uses in the office/research district.

Special uses in the office/research district shall include the following:

- (A) Daycare center (ages eight weeks to six years), provided the following special conditions are met:
 - (a) the special use will cause no appreciable traffic congestion or hazard to pedestrian safety;
 - (b) all outdoor play areas are suitably screened with fencing and landscaping acceptable to the board of trustees;
 - (c) All federal and state licensing requirements and regulations are met at all times; and
 - (d) Hours of operation are limited to 6:30 a.m. to 6:30 p.m.
- (B) Off-site parking of automobile inventory for locally franchised automobile dealerships, subject to the following special conditions:
 - (a) The minimum lot area of property for such use is 150,000 square feet;
 - (b) Such use shall not reduce required off-street parking below minimum standards for any other use which may occupy the property;
 - (c) Such use shall be adequately screened from view or otherwise situated so as to not adversely affect surrounding properties;
 - (d) The automobile dealership and/or property owner shall not permit customer visits to the property to view automobiles, and automobiles shall instead be driven to the automobile dealerships' primary dealership for customer viewing and/or test drives;
 - (e) No automobile repairs, automobile sales or other automobile dealership activities other than parking of automobiles shall be permitted;
 - (f) No loading and unloading of automobiles from automobile carriers shall take place upon the property or public streets, and instead shall occur at the respective automobile dealerships; and
 - (g) Approval shall be granted only after review of a plan showing the location and orientation of automobile inventory parking upon the property, the maximum number of spaces for automobile inventory parking, and such other information as may be relevant to the request.
- (C) Full service stand-alone restaurants seating no less than 200 persons, and offering no drive-through service.
- (D) Hotels.
- (E) Freestanding antennas and towers of any kind, as a primary or accessory use, subject to the restrictions set forth in section 4.05(E)(31).

ARTICLE XIV. - DEFINITIONS

(B) Definitions

....

Fence, solid: A fence, including gates, which conceals from view from adjoining properties, streets or alleys activities conducted behind it.

Fitness centers/health clubs: An establishment that provides health and fitness facilities such as running, jogging, aerobics, weight lifting, court sports, and swimming, and may include ancillary facilities such as locker facilities, showers, weight reducing equipment, massage therapy rooms, saunas, tanning machines, swimming pools, gymnasiums, sales of related health equipment and clothing, juice bars, and other related uses. May have licensed physicians, physical and massage therapists on staff.

Floor area: For determining floor area ratio: The sum of the gross horizontal areas of the several floors including also the basement floor of a building, measured from the exterior faces of the exterior walls, or from the centerlines of walls separating two buildings. The "floor area" shall also include the horizontal areas on each floor devoted to:

....

Marquee or canopy: A roof-like structure of a permanent nature which projects from the wall of a building.

Massage therapy establishment. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is offered by a licensed massage therapist as required by the State of Illinois, and as defined in State Law 225 ILCS 57/10. For the purposes of this land use definition, the following medical practices are not considered a massage service establishment, but are part of a medical/dental clinic: massage treatment administered by licensed medical practitioners, licensed physical therapists, chiropractors, acupuncturists or

other holistic medical practitioners, or similar professional medical person licensed by the state.

Medical cannabis dispensing organization, or dispensing organization, or dispensary 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 educational materials to registered qualified patients.

Medical or dental clinic. A facility operated by one or more physicians, dentists, chiropractors, psychiatrists, physiotherapists, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis. Medical clinics also include alternative medicine clinics, such as acupuncture and holistic therapies, methadone clinics, and physical therapy offices for physical rehabilitation.

Microbrewery: A brewery that produces less than 15,000 barrels of beer per year with 75 percent or more of its beer sold off-site.

...

Performing arts studio: An establishment housing a school or instructional facilities for dancing, music, both instrumental and voice, drama and stagecraft. This shall not include use for performances given to the public whether for fee or practice.

~~Physical culture and health services: Physical culture and health services includes activities conducted by licensed physicians as well as full-service health clubs providing bodybuilding and weight-reducing equipment, swimming, gymnasium and locker facilities, but does not include massage parlors, leisure spas or public baths.~~

~~*Planning and zoning commission:* The planning and zoning commission of the village, as created in [chapter 2](#) of the Village Code.~~

Planned development: A lot initially under unified ownership or control within which allowable exceptions in the district regulations are specified.