



MEMORANDUM

Date: October 12th, 2023
To: City of Madison Heights Planning Commission
From: Matt Lonnerstater, AICP – City Planner
Subject: Regulated Uses – Draft Language for Discussion

BACKGROUND

At the June 20th, 2023 meeting, staff and the Planning Commission reviewed the existing list of Regulated Uses (Section 10.502[A]) of the current Zoning Ordinance) and discussed whether certain uses should be removed from the list. At the conclusion of this discussion, the Planning Commission directed staff to remove the following uses from the list of Regulated Uses as part of the ongoing comprehensive Zoning Ordinance rewrite:

- Pool and Billiard Halls
- Tattoo Parlors
- Used Goods Uses

At the July 18th, 2023 meeting, staff and the Planning Commission continued the discussion on Regulated Uses, focusing on massage parlors and pawnbrokers; this discussion included a review of other municipal regulations in the State.

To continue this discussion, staff has put together draft ordinance language and text modifications, for discussion purposes only, relating to the Zoning Ordinance, Amusements Ordinance, and Business Regulations and Licenses Ordinance. While the Planning Commission does not typically get involved in ordinances outside of the Zoning Ordinance, Regulated Use standards are found outside of the Zoning Ordinance, with cross-references to zoning standards. Therefore, staff believes that the Planning Commission should be involved in potential changes to these general ordinances.

Any modifications to the Zoning Ordinance will be incorporated into the ongoing comprehensive Zoning Ordinance rewrite project, rather than through individual text amendments. Modifications to the general Code of Ordinances, while separate from the Zoning Ordinance, should be performed concurrently with zoning changes.

POOL AND BILLIARD HALLS

Staff recommends removing pool and billiard halls from the list of Regulated Uses, which will involve modifications to the Zoning Ordinance, the Amusements Ordinance (Chapter 4 of the general Code of Ordinances), and the Business Regulations and Licenses Ordinance (Chapter 7 of the general Code of Ordinances):

- **Zoning Ordinance:** Reclassify billiard halls as an “Indoor Recreational Business” use; remove from the list of Regulated Uses.
- **Amusements Ordinance (Article II. Pool and Billiard Halls):** Delete, in its entirety, Article II (Pool and Billiard Halls), which was adopted in 1958.
- **Business Regulations and Licenses Ordinance (Article VII. Regulated Uses):** Remove references to “pool and billiard halls.”

Based on the current draft of the Zoning Ordinance rewrite, Indoor Recreational Businesses are permitted, either by-right or as a special land use, in the B-1, B-2, B-3, City Center, Mixed Use Innovation 1 and 2, M-1, M-2, and High-Rise zoning districts.

TATTOO PARLORS

Staff recommends removing tattoo parlors from the list of regulated uses, which will involve modifications to the Zoning Ordinance:

- **Zoning Ordinance:** Rename tattoo parlors to “Tattoo/Body Art Shops”; reclassify tattoo/body art shops as a “Personal Service Establishment”; remove from the list of Regulated Uses.

Based on the current draft of the Zoning Ordinance rewrite, personal service establishments are permitted by-right in the O-1, B-1, B-2, B-3, City Center, Mixed Use Innovation 1 and 2, and High-Rise zoning district.

USED GOODS USES

Staff recommends removing used goods uses from the list of Regulated Uses, which will involve modifications to the Zoning Ordinance.

- **Zoning Ordinance:** reclassify used goods uses as “General Retail”; remove from the list of Regulated Uses.

Based on the current draft of the Zoning Ordinance rewrite, personal service establishments are permitted by-right in the B-1, B-2, B-3, City Center, Mixed Use Innovation 1 and 2, and High-Rise zoning district.

MASSAGE PARLORS AND MASSAGE ESTABLISHMENTS

Staff recommends removing licensed massage establishments (defined below) from the list of Regulated Uses but keeping unlicensed massage establishments (defined below) as a regulated use. These changes will involve modifications to the Zoning Ordinance and Business Regulations and Licenses Ordinance (Chapter 7 of the general Code of Ordinances):

- **Zoning Ordinance:**
 - Rename massage parlors and massage establishments to “Massage Therapy Facilities”.
 - Differentiate between licensed massage therapy facilities and unlicensed massage therapy facilities:
 - **Massage Therapist, Licensed:** An individual specifically trained, licensed, and certified in massage therapy. A massage therapist shall maintain a valid license

through the State of Michigan under P.A. 471 of 2008 (MCL 333.16334 et seq.) and shall be a certified member of the American Massage and Therapy Association (AMTA), the American Bodywork and Massage Professionals Association (AMBP), or other recognized massage association with equivalent professional membership standards and a written and enforceable code of ethics.

- **Massage Therapy Facility, Unlicensed:** A place of business in which massage therapy is practiced by employees that are not licensed massage therapists, as defined herein. Unlicensed massage therapy facilities shall be considered a Regulated Use per this Ordinance.
- **Massage Therapy Facility, Licensed:** A place of business having a source of income or compensation derived from the practice of massage therapy, as defined herein, where licensed massage therapists administer or teach massage therapy. Licensed massage therapy facilities shall be included in the definition of Personal Service Establishments, as defined herein. Licensed massage therapy facilities are further subject to the business licensing regulations of Article XII of the Code of Ordinances.
- Reclassify licensed massage therapy facilities as a “Personal Service Establishment.” Keep unlicensed massage therapy facilities as a “Regulated Use.”
- **Business Regulations and Licenses Ordinance (Article XII. Massage Parlors and Massage Establishments)**
 - Rename to “Article XII. Massage Therapy Facilities”.
 - Keep language and definitions consistent with Zoning Ordinance.
 - Update list of exemptions (e.g. medical practitioners, dentistry, physical therapists, chiropractors, osteopathy, podiatry).
 - Update licensing requirements, including the requirement that up-to-date State license and professional membership documents be provided upon initial business license approval and upon renewal.

Based on the current draft of the Zoning Ordinance rewrite, personal service establishments are permitted by-right in the B-1, B-2, B-3, City Center, Mixed Use Innovation 1 and 2, and High-Rise zoning district.

PAWNBROKERS

At this time, staff does not recommend changes to the City’s current pawnbroker regulations, which classify pawnbrokers as a Regulated Use. Unlike massage establishments, there do not appear to be any state-level regulatory agencies that oversee pawnshops and pawnbrokers. Although the state requirements and record keeping regulations are stringent, PA 273 of 1917 places the responsibility of reviewing, approving, and enforcing pawnbroking licenses on the local municipality. The Madison Heights Police Department has expressed concern about relaxing city regulations on pawnbrokers, stating,

The police department is highly concerned that having pawnshops in our city will increase crime, it will directly bring crime into our city by having a location for stolen goods to be sold, and will

increase the police department's duties to investigate more of the type of property crimes that are associated with pawnshops.

Staff notes that some Michigan municipalities classify pawnbrokers as “alternative” financial establishments along with uses such as bail bond services, car title lenders, check cashing services, and currency exchange. However, municipalities have varying degrees of regulations. For example, the City of Hancock allows Alternative Financial Services as a special land use in their Mixed-Use Districts, with no use-specific standards. Dearborn, however, places strict separation standards for all Alternative Financial Establishments, including 700 feet from any school, childcare facility, park, or residential use, and 1,000 feet from another alternative financial establishment; this is similar to Madison Heights’ existing Regulated Use standards.

RESPONSES FROM MICHIGAN MUNICIPALITIES

Per the Planning Commission’s recommendation, staff reached out to several Michigan municipalities to inquire if they had any zoning or police issues with massage establishments and/or pawnbrokers. Staff received responses from the cities of Troy, Holland, Livonia, and Ferndale; the full responses are attached for Planning Commission consideration, and summarized below:

- The cities of Troy and Holland stated that they do not currently have pawnshops within their city limits. Troy had a massage establishment violation (handled via Police earlier this year). Holland did not report any incidents with massage establishments but is aware of issues relating to both pawnbrokers and massage establishments outside of the City.
- The City of Livonia reported two pawnbroker establishments but is unaware of any recent issues. Livonia stated that they have had to close down a few massage establishments for illicit activities via police action.
- The City of Ferndale did not report any incidents relating to pawnbrokers or massage establishments.

NEXT STEPS

Following the discussion at the meeting, staff will look to the Planning Commissions for guidance as to whether to move forward with the proposed changes. Changes to zoning regulations, if desired, will be folded into the ongoing comprehensive Zoning Ordinance rewrite project. Staff will also coordinate with the City Clerk for concurrent amendments to the Business Regulations and Licenses Ordinance.