



# MEMORANDUM

Date: July 12<sup>th</sup>, 2023  
To: City of Madison Heights Planning Commission  
From: Matt Lonnerstater, AICP – City Planner  
Subject: Regulated Uses – Massage Parlors/Establishments and Pawnshops

At the June 20<sup>th</sup>, 2023 meeting, staff and the Planning Commission reviewed the existing list of Regulated Uses (Section 10.502[A] of the 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

While massage parlors and pawnshops were also included in this discussion, the Planning Commission asked staff to return with a more detailed analysis of these uses, including research into how other municipalities regulate them. As directed, this memo provides more information on local and state regulations pertaining to massage parlors and pawnshops. Additionally, staff has put together comparative charts relating Madison Heights' current regulations to other Michigan municipalities. The list of municipalities primarily consists of cities within the metro Detroit region, but also includes several cities whose zoning ordinances were used as references as part of the Zoning Ordinance rewrite project

## MASSAGE PARLORS AND MASSAGE ESTABLISHMENTS

In Madison Heights, businesses performing massages may be classified either as a “massage parlor” or “massage establishment”, as defined below:

- *Massage Parlor: Any business establishment whose principal business is the practice of massage as defined in this section, and which has a fixed place of business where any person, firm, association or corporation carries on any of the activities as defined in this section, as the principal use or as an incidental or accessory use in excess of the limits provided in the definition of massage establishment. A massage parlor is a regulated use pursuant to Section 10.502[A] of the Madison Heights Zoning Ordinance and requires a special approval use permit from City Council.*
- *Massage Establishment: Any business where the practice of massage is performed incidental or accessory to a permitted principal use. The area used for massage may not exceed ten percent of the businesses' total floor area and may not exceed three work areas. This includes uses such as a health club, health spa, physical fitness club, hair salon or other business that customarily offers massage on occasion and incidental or accessory to its principal operation.*

### Massage Parlors

Massage Parlors, as a principal use, are subject to the following local ordinances and regulations:

- Regulated Uses (Section 10.502[A] of Zoning Ordinance); and
- Regulated Uses (Article VII of the Business Regulations and Licenses Ordinance); and
- Massage Parlors and Massage Establishments Ordinance (Article XII of the Business Regulations and Licenses Ordinance).

As a Regulated Use, massage parlors are permitted in the B-2, Planned Business, and B-3, General Business, zoning districts through the Special Approval process (City Council approval). However, strict siting standards for Regulated Uses (including 1,000 feet from other Regulated Uses and 300 feet from residential uses, religious institutions, schools, parks, or childcare facilities) severely limits the number of properties where a massage parlor can legally be established.

Per the Massage Parlors and Massage Establishments Ordinance, anyone engaged in the practice of massage (defined as a “Massage Therapist” per the Ordinance) is required to first obtain a Massage Therapist License through the State of Michigan, in compliance with Public Act No. 471 of 2008. To obtain a State Massage Therapist License, an applicant must:

- (1) Have a high school diploma or equivalent; and
- (2) Be at least 18 years of age; and
- (3) Have passed an examination adopted by the Michigan Board of Massage Therapy; and
- (4) Have obtained at least 500 hours of clinical massage classroom or course instruction.

State Massage Therapist Licenses are valid for three years, with 18 continuing education credit hours required to renew.

Evidence of a valid state license is required for the issuance of a Madison Heights’ massage parlor/massage establishment business license. The initial business license request is required to appear before City Council, with annual administrative renewal required.

Note that medical practitioners, barbers and cosmetologists who offer neck, face, and scalp massages, and schools offering massage therapy courses are not considered massage parlors or massage establishments in Madison Heights and are exempt from the Regulated Use standards and Massage Parlors and Massage Establishments Ordinance.

### Massage Establishments

Massage Establishments, as accessory uses, are not considered Regulated Uses but are still subject to the Massage Parlors and Massage Establishments Ordinance standards listed above. Madison Heights still requires evidence of a state Massage Therapist License prior to issuing a massage parlor/massage establishment business license.

### Municipal Comparisons

The attached Municipal Regulations Comparison Chart compares Madison Heights’ massage parlor/massage establishment regulations with those of other Michigan municipalities. These

municipalities are organized into three categories based upon the restrictiveness of their massage standards:

**Least Restrictive:** The cities of Troy and Warren do not appear to place any additional zoning regulations on massage parlors or establishments. However, both have separate massage business licensing ordinances, and Troy limits the number of massage therapy licenses to 18 per year.

**Semi-Restrictive:** The cities of Ferndale and Holland allow massage clinics and establishments by right in their business districts. However, such facilities and their employed massage therapists must be professional members of the American Massage and Therapy Association (AMTA) or another nationally-recognized massage therapy organization. Marquette allows massage parlors with professional AMTA massage therapists by-right, but classifies non-AMTA facilities as a special land use with strict separation requirements (e.g. 300 feet from residential, 500 feet from schools and parks).

**Most Restrictive:** Similar to Madison Heights, the cities of Royal Oak, Birmingham, Novi, and Livonia classify massage parlors as a regulated use. Each of these municipalities requires massage facilities to obtain special land use approval and meet strict separation requirements.

There are a number of professional associations and organizations for massage therapists (refer to attached document). However, a few stand out as “designation-granting” associations which issue certifications to members that achieve certain benchmarks. For example, the American Massage Therapy Association (AMTA) is the largest professional association for massage therapists and offers a professional membership certification to members who obtain a minimum number of training hours. The American Medical Massage Association (AMMA) offers a certification for members who wish to become a certified *Medical Massage Therapist*.

#### Considerations for Madison Heights

Based on the comparison chart, Madison Heights is not alone in treating massage parlors as a regulated use, employing strict approval processes and stringent location requirements. However, municipalities across the state appear to have a spectrum of regulations, with multiple tools and levels of standards relating to massage establishments. Based on staff research, Michigan’s Massage Therapy licensing act does have built-in certification and educational “safety nets”. Further, additional layers of certification may be considered through a requirement that state-licensed massage therapists also be certified through a professional massage therapy association.

As discussed at the previous Planning Commission meeting, the Madison Heights Police Department has provided a brief response, summarized below, on the question of removing massage parlors from the list of Regulated Uses:

*Since the reopening of the Special Investigations Unit (SIU) in 2019, detectives investigated approximately 15 advertised massage businesses (apartments/houses) and 5 massage parlors (store front) after receiving tips that illicit acts were occurring at these establishments. SIU was asked to investigate massage parlors that fell outside of the Madison Heights area due to our experience in handling these types of cases.*

*Through these investigations, it was discovered that 3 out of the 5 massage parlors offered illicit acts and were involved in the sex trafficking industry. All the massage businesses being ran out of an apartment/house offered an illicit act as part of the massage service. In almost all cases, the subjects arrested during these investigations ended up being victims of the sex trafficking trade.*

*Not all massage parlors are houses of ill fame, but our ordinances may need to be revised prior to any future approvals as an extra layer of protection. Even a legitimate professional masseuse will most likely be propositioned by an aggressive client leading to the need for additional police services.*

## PAWNBROKERS

In Madison Heights, pawnbrokers are defined as:

*Any person, corporation, or member or members of a co-partnership or firm, who loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.*

Pawnbrokers are subject to the following local ordinances and regulations:

- Regulated Uses (Section 10.502[A] of Zoning Ordinance); and
- Pawnbrokers (Article V of the Business Regulations and Licenses Ordinance); and
- Regulated Uses (Article VII of the Business Regulations and Licenses Ordinance); and

As a Regulated Use, pawnbrokers are permitted in the B-2, Planned Business, and B-3, General Business, zoning districts through the Special Approval process (City Council approval). However, strict siting standards for Regulated Uses (including 1,000 feet from other Regulated Uses and 300 feet from residential uses, religious institutions, schools, parks, or childcare facilities) severely limits the number of properties where a pawnbroker can legally be established.

### State Act PA 273 of 1917

Madison Heights' pawnbroker and business licensing regulations require pawnbrokers to meet the record keeping and business practice requirements of Michigan's Pawnbrokers Act, Public Act 273 of 1917. Major requirements and contents of the state act include:

- Pawnbrokers shall submit a \$3,000 surety bond to the local municipal government.
- Pawnbrokers shall be required to renew their pawnbroker licenses from the municipality on an annual basis.
- Pawnbroking is prohibited on Sunday.
- Pawnbrokers shall record all personal property received at the place of business, including description of the item, any amount of money loaned, identification of the person from whom the item was received, day and hour when the item was received, among other information. A template record of transaction form is provided in the Act. Record keeping may be done digitally.
- Within 48 hours after an item is pawned, pawnbrokers shall send a copy of the record of transaction to the local police agency.

- Pawnbrokers shall submit a daily record of transactions to the local police agency.
- Interest may be charged on a loan at a rate not to exceed 3% per month.
- Pawnbrokers shall not allow items to be pawned from persons under 18 years of age or a person that the pawnbroker suspects as having stolen the item.

In addition to the requirements listed above, the state Act allows local law enforcement to place a hold on personal property that, with probable cause, is believed to have been stolen or misappropriated.

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 provided a brief response, summarized below, on the question of removing pawnbrokers from the list of Regulated Uses:

*The Police Department is not in favor of allowing pawnshops to be removed from regulated use status or zoning requirements. Pawnshops are not the same as resale shops. Pawnshops either buy items directly from a consumer, mark them up based on their profit margins and resell the items similar to that of resale shops; unfortunately, this is not the majority of their business. Pawn Shops are well known for purchasing stolen items. Criminals that steal items go to the Pawn Shops to get their quickest pay off for the stolen items. The pawn shops, unfortunately, don't question where the merchandise came from, and the police department has had serious problems getting them to comply with requirements such as reporting all their purchases to Leads Online. Further, the pawnshops that we have had here in the past were taking merchandise that was stolen and were selling this property without notifying the police department or using the required Leads Online reporting system. Further, one business was eventually closed for failing to disclose stolen property and having property melted down without retaining it for the required amount of time under the law in case the merchandise was indeed stolen.*

*Further, pawnshops allow property to be pawned for loans with very high interest rates and eventually foreclose on the property that was pawned if the person is unable to repay the loan in a certain amount of time. This can be said to be similar in nature to loan advance stores but is really completely different in the fact that you are putting your personal property up as collateral for instant cash. Pawnshops are known to give very low amounts in comparison to the value of the property pawned. What we have seen is that people are addicted to drugs pawn some of their last heirlooms in order to purchase drugs and are unfortunately never able to recover them.*

*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. Pawnshops are not like what is seen on TV in any way, shape or form. The shows are highly sensationalized and are not a true indication of what pawnshops are like.*

### Municipal Comparisons

The attached Municipal Regulations Comparison Chart compares Madison Heights' pawnshop regulations with those of other Michigan municipalities. The studied municipalities are organized into two categories based upon the restrictiveness of their massage standards:

**Least Restrictive:** The cities of Troy, Marquette, Holland, and Novi do not reference pawnshops in their Zoning Ordinances. While these communities do have separate pawnbroker licensing ordinances, they do not appear to go above and beyond the requirements of the state Pawnbroker Act. Novi, however, does require City Council approval for pawnshop establishments. The City of Ferndale only allows pawnshops in their “Extended Business District” but does not appear to have any supplemental regulations or separation requirements.

**Most Restrictive:** Similar to Madison Heights, the cities of Royal Oak, Birmingham, Livonia, and Warren classify pawnshops as regulated uses. In particular, Royal Oak and Warren contain very stringent separation requirements (Royal Oak prohibits pawnshops within 150 feet of residential property, compared to Madison Heights’ 300 foot requirement).

Compared to massage regulations and based upon the municipal comparison chart, there appears to be a narrower spectrum of local requirements relating to pawnshops; municipalities either allow them by-right (or sometimes as a special use) *or* severely restrict their locations via separation requirements, with little in between. Madison Heights falls on the latter end of this spectrum.

#### Considerations for Madison Heights

Based on the comparison chart, Madison Heights is not alone in classifying pawnbrokers as a regulated use, employing strict approval processes and stringent location requirements. Compared to massage establishments which have an umbrella of state and national-level licensing and certification processes, the regulation of pawnshops in the State of Michigan appears to rely primarily on local licensing and enforcement. As with the Police Department’s comments, planning staff has concerns regarding the capacity of local law enforcement to monitor all pawn transactions and the stress and additional burden of enforcing the State Pawnbroker Act.

#### Next Steps

Following the discussion at the meeting, staff will look to the Planning Commissions for guidance as to whether or not Massage Parlors/Establishments and Pawnbrokers should continue to be classified as regulated uses under the Zoning Ordinance. 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.