

**VILLAGE OF BARTLETT**

**COMMITTEE AGENDA**

**DECEMBER 3, 2019**

**BUILDING & ZONING, CHAIRMAN HOPKINS**

1. 120 Live (120 W. Bartlett Avenue)
2. Establish Trailer/Semitrailer Storage Lots and Service Tax Text Amendment

**POLICE & HEALTH, CHAIRMAN CARBONARO**

1. Request to Amend Cannabis-Related Ordinances

**EXECUTIVE SESSION**

To Discuss Sale of Village Owned Property Pursuant to  
Section 2(c)6 of the Open Meetings Act



# Agenda Item Executive Summary

Item Name 120 Live (120 W Bartlett Avenue) Committee or Board Committee

## BUDGET IMPACT

Amount:	N/A	Budgeted	N/A
List what fund	N/A		

## EXECUTIVE SUMMARY

The Petitioner proposes to establish a sit down restaurant with alcohol service in an existing building located at 120 W Bartlett Avenue. The Site Plan includes creating a fenced outdoor seating area on the west side of the existing building. The interior of the building will undergo a substantial remodel which will include the creation of an entertainment area which will host special events such as karaoke.

The Petitioner is requesting the following:

- **Site Plan** review
- **Special Use Permits** to allow:
  - Restaurant with alcohol service
  - Outdoor seating
  - Live entertainment (indoor and outdoor)
- **Variations** to allow:
  - A reduction in the required number of off-street parking spaces
  - A reduction of the required open space
  - An increase in the maximum wall sign square footage allowance

The **Zoning Board of Appeals** reviewed the Petitioner's request for **Variations** and conducted the requisite public hearing at their meeting on November 7, 2019. The Zoning Board of Appeals recommended **approval** of the variations requested based upon the Findings of Fact outlined in the Staff Report.

The **Plan Commission** reviewed the Petitioner's requests for a **Site Plan Review and Special Use Permits** and conducted the requisite public hearing at their meeting on November 14, 2019. The Plan Commission recommended **approval** of the Site Plan and Special Use Permits subject to the conditions recommended by Staff, the Findings of Fact and one additional condition **(G) designating an appropriate smoking area at the rear of the lot:**

- A. Building permits shall be required for all construction activities including, but not limited to, dumpster enclosure and signage
- B. Staff approval of the Landscape, Sign, and Photometric Plans
- C. Village engineer approval of the Engineering and Stormwater Plans
- D. Landscaping must be installed within one year of the issuance of the building permit
- E. If landscaping cannot be installed at the time of construction, as landscape estimate shall be submitted to Planning And Development Services for review and approval by the Director and a bond posted in the approved amount for its future installation
- F. All outdoor entertainment shall end before 11:00 p.m. Monday through Saturday evenings and before 10:00 p.m. on Sunday evenings.
- G. Petitioner shall work with Staff to find an appropriate space at the rear of the lot for a designated smoking area.**
- H. Findings of Fact (Site Plan)
- I. Findings of Fact (Special Use Permits)

PDS Memo, Minutes of November 7, 2019 ZBA Meeting, Minutes of November 14, 2019 Plan Commission Meeting, Applicant Cover Letter, Development Application, Location Map, Development Plans, and Downtown Parking Map

## ACTION REQUESTED

- For Discussion Only – *Review and forward to the Village Board for action.*
- Resolution
- Ordinance
- Motion

Staff: Roberta Grill, Planning and Development Services Director Date: 11/25/19

**PLANNING AND DEVELOPMENT SERVICES DEPARTMENT MEMORANDUM**  
**19-184**

DATE: November 25, 2019  
TO: Paula Schumacher, Village Administrator  
FROM: Roberta Grill, Planning and Development Services Director   
RE: **(#19-12) 120 Live (120 West Bartlett Avenue)**

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**PETITIONER**

Mary Ann Bollman and Dana Bollman, property owners and business operators

**SUBJECT SITE**

120 W Bartlett Avenue (north side of Bartlett Avenue between Oak and Eastern Avenues)

**REQUESTS**

**Site Plan Review**

**Special Use Permits** to allow:

- a) Restaurant with Alcohol Service,
- b) Outdoor Seating, and
- c) Live Entertainment (Indoor and Outdoor)

**Variations** to allow:

- a) A reduction in the required number of off-street parking spaces,
- e) A reduction of the required open space, and
- f) An increase in the maximum wall sign square footage allowance

**SURROUNDING LAND USES**

	<b><u>Land Use</u></b>	<b><u>Comprehensive Plan</u></b>	<b><u>Zoning</u></b>
<b>Subject Site</b>	<b>Vacant Office</b>	<b>Commercial</b>	<b>B-1</b>
North	Commercial	Commercial	B-1
South	Railroad Tracks	Commercial	B-1
East	Commercial	Commercial	B-1
West	Commercial	Commercial	B-1

**ZONING HISTORY**

This property falls within the original Village of Bartlett corporate limits and has been zoned for business use throughout the history of the Village of Bartlett Zoning Ordinance. In 1998, a Site Plan was approved as Ordinance #1998-85 for a bakery (Poundcakes) to operate in this building. In 2010, the building was remodeled for an office use.

## DISCUSSION

1. The Petitioner is requesting a **Site Plan Review** to establish a restaurant in the existing building and to improve the site with a fenced outdoor dining area on the west side of the building.
2. The Petitioner is also requesting **Special Use Permits** to establish a restaurant serving alcohol, an outdoor dining area, and live entertainment both indoors and outdoors.
3. This lot is improved with a building approximately 3,000 square feet in area. Three (3) off-street parking spaces are located on the lot between the rear of the building and E Oneida Avenue. The proposed redevelopment plan maintains these off-street parking spaces.
4. The interior of this building will be substantially renovated to create a sit down restaurant and entertainment area where activities such as karaoke will be offered. The exterior will be improved with an outdoor dining area immediately adjacent to the building, improvements to the front façade, including the installation of new lighting and signage, a new dumpster enclosure at the rear of the building, and on-site landscape improvements. The outdoor seating area will be enclosed by an eight foot (8') tall composite fence that has a gray stone appearance around three sides with an open picket style aluminum fence along the Bartlett Avenue sidewalk. This fence design will provide an open view of the outdoor seating area along the Bartlett Avenue sidewalk.
5. The anticipated hours of operation for this business are from 10 a.m. until 1:00 a.m. week nights and 10:00 a.m. until 2:00 a.m. Friday and Saturday. The petitioner understands that the hours of operation may be limited by conditions of a Special Use Permit and/or Liquor License. Staff recommends limiting the hours of outdoor entertainment to be consistent with the Village amplifier regulations (BMC Title 3 Chapter 22). Staff recommends that all outdoor entertainment end before 11:00 p.m. Monday through Saturday and before 10:00 p.m. on Sunday.
6. The Petitioner is requesting the following **Variations**:
  - A. A 94% reduction in the number of off-street parking spaces required (BMC 10-11-1-6 Spaces Required). The Zoning Ordinance requires 46 off-street parking spaces to accommodate this use. The requirement is based on providing one (1) space for each three (3) seats in the dining and patio area, plus one (1) space for each three (3) employees at peak shift. The proposed floor plan indicates a total of 122 seats and the Petitioner anticipates a maximum of 15 employees at peak shift. Three (3) off-street parking spaces will be maintained on the site. Due to the large amount of public on and off-street parking located nearby, the anticipated parking demand may be accommodated off-site. The attached map and data table illustrates the location and availability of public parking within close proximity to this proposed restaurant.



- B. An approximately 99% reduction in the amount of open space provided on the lot (BMC 10-11A-4.B *Minimum Landscaped Open Space*). The Zoning Ordinance requires that fifteen percent (15%) of the lot area be preserved as open or green space. The Petitioner proposes to maintain large planters on the patio, planters along the Oneida Avenue lot line, and the existing landscaping between the new patio area and the West Bartlett Avenue sidewalk.
  
- C. An increase in the amount of wall signage (BMC 10-12-9 *Allowable Sign Area*). The Zoning Ordinance allows wall signage at one (1) square foot of sign for each one (1) linear foot of building width along a public street. For this building, a maximum of twenty-two (22) square feet of wall signage is allowed on the front façade and twenty-seven (27) square feet of wall signage on the rear façade. The petitioner is requesting sixty (60) square feet of wall signage on the front façade.

## **RECOMMENDATION**

- 1. The Staff recommends approval of the Petitioner's requests for a Site Plan and Special Use Permits subject to the following conditions and Findings of Fact:
  - a. Building permits shall be required for all construction activities including, but not limited to, dumpster enclosure and signage;
  - b. Staff approval of the Landscape, Sign, and Photometric Plans;
  - c. Village Engineer approval of the Engineering and Stormwater Plans;
  - d. Landscaping must be installed within one year of the issuance of a building permit;
  - e. If landscaping cannot be installed at the time of construction, a landscape estimate shall be submitted to Community Development for review and approval by the Village Arborist and a bond posted in the approved amount for its future installation;
  - f. All outdoor entertainment shall end before 11:00 p.m. Monday through Saturday evenings and before 10:00 p.m. on Sunday evenings.
  - g. Findings of Fact (Site Plan):
    - i. That the proposed Restaurant is a permitted use in the B-1 Zoning District;
    - ii. That the proposed building, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses;
    - iii. That the vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well;
    - iv. That the site plan provides for the safe movement of pedestrians within the site;
    - v. That there is a sufficient mixture of grass trees and shrubs within the interior and perimeter (including public right-of-way) of the site so that the proposed development will be in harmony with adjacent land uses. Any part of the site plan area not used for buildings, structures, parking or access ways shall be landscaped with a mixture of grass, trees and shrubs; (All landscape improvements shall be in compliance with Chapter 10-11A, Landscape Requirements.)
    - vi. That all outdoor storage areas are screened and are in accordance with standards specified by this Ordinance.
  - h. Findings of Fact (Special Use Permits):

- i. The proposed Special Uses are desirable to provide a use which is in the interest of public convenience and will contribute to the general welfare of the community;
  - ii. That the proposed Special Uses will not under the circumstances of the particular case be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or be injurious to property value or improvement in the vicinity;
  - iii. That the Special Uses shall conform to the regulations and conditions specified in the Bartlett Zoning Ordinance for such use and with the stipulations and conditions made a part of the authorization granted by the Village Board of Trustees.
2. The Zoning Board of Appeals reviewed the Petitioner's request for three (3) variations and conducted the requisite public hearing on November 7, 2019. **The Zoning Board of Appeals recommended approval** of the three (3) requested variations:
  - a. Reduction of the number of off-street parking spaces,
  - b. Reduction of the required open space, and
  - c. Increase in the amount of wall signage.
3. The Plan Commission reviewed the Petitioner's request for a Site Plan Review and three (3) Special Use Permits and conducted the requisite public hearing on November 14, 2019. **The Plan Commission recommended approval** of the Site Plan and the three (3) requested Special Use Permits:
  - a. Restaurant with alcohol service,
  - b. Outdoor seating area, and
  - c. Live entertainment indoor and outdoor.**subject to the conditions and Findings of Fact recommended above by the Staff and the following additional condition:**
  - G. Petitioner shall work with Staff to find an appropriate space at the rear of the lot for a designated smoking area.**

## **ATTACHMENTS**

- Location Map
- Letter dated August 29, 2019 from Dana Bollman
- Village of Bartlett Development Application received September 3, 2019
- Compiled supporting Plans prepared by Sweat Shop Design
- Map of Available Downtown Parking
- November 7, 2019 Zoning Board of Appeals Meeting Minutes
- November 14, 2019 Zoning Board of Appeals Meeting Minutes

rwh/attachments

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Zoning Board of Appeals Minutes  
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**(#19-12) 120 Live (120 W. Bartlett Avenue)**

**Variations:**

- a) A reduction in the required number of off-street parking spaces,
- b) A reduction of the required open space, and
- c) An increase in the maximum wall sign square footage allowance

**PUBLIC HEARING**

**The following Exhibits were presented:**

**Exhibit A - Picture of Sign**

**Exhibit B - Mail Affidavit**

**Exhibit C - Notification of Publication**

**R. Hanlon** stated the first petitioners are requesting to renovate an existing building and renovate and establish a restaurant with alcohol service, outdoor dining area and also offer live entertainment. In order to do this they are required to get 3 variations. The first is a reduction in the required number of parking spaces. The second is a reduction of the required open spaces and lastly, an increase in the maximum wall signage square footage allowed. The first variation is parking. They are asking for a 94% reduction in the number of off-street parking spaces required. The zoning ordinance requires 46 off-street parking spaces to accommodate this use. There exists 3 parking spaces on the site right now and they plan to maintain those 3 parking spaces. Due to the large number of public on and off-street parking spaces in the area there should be adequate parking. We included the downtown parking utilization map in your packet, the same one that you saw when More Brew came through and the available parking spaces in the area listed.

The second variation is the reduction in the amount of zoning space. The zoning ordinance currently requires a 15% open space on lots in the downtown area. This property currently does not meet that requirement. This is a little bit more open space on the property that they do plan to improve in order to do the outdoor seating area (outdoor patio).

Lastly, they are asking for an increase in the amount of allowable wall signage. The zoning ordinance allows 1 sq ft of wall signage per 1 linear ft of building width. On the front façade they allowed 22 sq ft of wall signage and they are planning for about 60 sq ft of wall signage. The variation is for the wall signage of the front faced not the rear façade. As you are all aware, the downtown overlay heard recently is making its way through process and will probably be approved by the board at the next meeting. If the downtown overlay were already approved the variation for open space for green space would not be necessary because the overlay does not require that it be set aside. The parking variation would be greatly reduced. The downtown overlay would require for this use only 8 parking spaces and the sign variation would be the same because the downtown overlay does not speak to signage. If you have any questions, I will be happy to answer them. The petitioners are in the audience if you have any questions.

**M. Werden** asked if the signage will be permanent or temporary. **R. Hanlon** stated it is all permanent signage. **J. Banno** questions how does the signage size compare to other businesses in the area?





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**R. Hanlon** we did not do an analysis of that, but I think that it is very compatible to the others in the area. The design as well is in keeping with the downtown area. **R. Grill** stated it appears they are trying to balance the appearance of the signage. **G. Koziol** agrees that larger signage is reasonable request and appropriate. **B. Bucaro** agrees with it being balanced and thinks it looks good. **M. Werden** agrees, highly visible, does not block windows. **C. Deveaux** agrees, looks impressive, and would be beneficial.

**M. Sarwas** question about parking overlay requiring 8 space. Currently they only have 3. **R. Hanlon** correct, they still would be required to get a variation that would be much reduced from the variation they are asking for currently. **R. Hanlon** asks if the 3 spots are in the back of the building. **R. Hanlon** correct, they are on the site plan currently existing. **M. Sarwas** agrees that there is also plenty of public parking available.

**M. Werden** asked if anyone else had any comments or questions.

**M. Werden** opened public hearing. No one came forward.

**M. Werden** asked if there were any further discussions or motions.

**G. Koziol** made a motion to pass along a positive recommendation to the Village Board to approve case (#19-12) 120 Live at 120 W. Bartlett Avenue.

Motioned by: **G. Koziol**

Seconded by: **C. Deveaux**

**M. Werden** closed the Public Hearing portion of the meeting.

**Roll Call**

**Ayes: G. Papa, B. Bucaro, J. Banno, M. Werden, G. Koziol, M. Sarwas and C. Deveaux**

**Nays: None**

**The motion carried.**

**Mike Kelly** entered the Council Chambers and wished to speak on the 120 Live project.

**M. Werden** asked for a motion to re-open the Public Hearing for 120 Live to allow **Mike Kelly** to speak.

Motioned by: **J. Banno**

Seconded by: **M. Sarwas**

**Roll Call**

**Ayes: G. Papa, B. Bucaro, J. Banno, M. Werden, G. Koziol, M. Sarwas, and C. Deveaux**

**Nays: None**



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**The motion carried.**

**M. Kelly** For the record, he could not get into the building at 7:02 p.m. Concerned about the outdoor entertainment next door. Concerned about the residential next door and residence that he will be putting on top of his office, residence towards the dentist's office, and behind it. There will be a lot of people affected by the noise and the sounds that will echo. Also would like to put on the record that he saw that the building was shut down at least twice for not having permits, but while it was shut down, they were building on it anyway every day, all day and that did not seem to mean anything. He does not think there has been zoning granted yet, but there has been a lot of work done. **R. Grill** what was discussed tonight was not the special use permit for the noise. Tonight they discussed the variations for the wall signage and the off-street parking, reducing the number of parking spaces and the required open space. The live entertainment is going to be discussed next Thursday at the Plan Commission. **M. Kelly** stated that he is concerned about the parking. He wants these people to be successful, but this is a major problem and when he built his building he was required by the village to build a parking lot in the back and it seems now if you do not have the space that is okay. When he left tonight there was no parking and something has to be done more than just 3 parking spaces in the back. **R. Grill** you are on the record.

**Lucy** stated that her concern is about the business next door having music outside and she is going to be living upstairs in an apartment that she sometimes stays in in the wintertime, but she is afraid she will not be able to sleep because of all of the noise. That is her main concern. He told her there was going to be karaoke inside and a bar outside. She thinks it will be great to have another business nearby that will bring in more people, but her only concern is about what kind of people will come on the weekends. She is concerned that it will be extremely loud and extremely late. **M. Werden** asks if there are earlier restrictions during the week than there are on the weekend. **R. Hanlon** we will be suggesting to Plan Commission next week that they place a condition on special use for live entertainment that the amplified noise on the outside of the business cease at 11:00 Monday through Saturday and at 10:00 on Sunday. The reason we came up with those is because that is consistent with our amplification ordinance. **M. Werden** informs Lucy that this will be discussed next week. **M. Werden** stated you both have brought up valid concerns for people living on that block. Again, voice those next week at the hearing to have some influence and that 11:00 may be a little late during the week. **Lucy** said, yes, she will come next week to the meeting.

**M. Werden** closed the Public Hearing portion of the meeting.

**Roll Call**

**Ayes:** G. Papa, B. Bucaro, J. Banno, M. Werden, G. Koziol, M. Sarwas and C. Deveaux

**Nays:** None

**The motion carried.**





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**(#19-12) 120 Live**

120 W. Bartlett Avenue

Site Plan and Special Use Permits to allow:

- a) Restaurant with Alcohol Service
- b) Outdoor Seating and
- c) Live Entertainment (indoor and outdoor)

**Exhibit A - Picture of Sign**

**Exhibit B - Mail Affidavit**

**Exhibit C - Notification of Public Hearing Notice in Newspaper**

**R. Hanlon** stated that the petitioner is proposing to renovate the property at 120 W. Bartlett Avenue to establish a restaurant with alcohol service, an outdoor seating area, and indoor and outdoor entertainment. The petitioner is requesting Site Plan approval and three Special Use permits. The first is a restaurant serving alcohol, the second is to allow outdoor seating, and the third is to allow live entertainment indoor and outdoor. The interior of the building is being substantially renovated to create a sit down restaurant and entertainment area where activities such as karaoke will be offered. The exterior will be improved with an outdoor dining area immediately adjacent to the building. There are improvements planned for the front façade, including the installation of new lighting and signage, a new dumpster enclosure at the rear of the building, and on-site landscape improvements. The outdoor seating area will be enclosed by an eight foot (8') tall solid composite fence that has a gray stone appearance around three sides with an open picket-style aluminum fence along the Bartlett Avenue sidewalk.

The anticipated hours of operation for this business are from 10:00 a.m. until 1:00 a.m. week nights and 10:00 a.m. until 2:00 a.m. Friday and Saturday. The Staff is recommending that all outdoor entertainment end before 11:00 p.m. Monday through Saturday and before 10:00 p.m. on Sunday. The reason those hours were chosen is because it is consistent with our Amplifier Regulations. The petitioner is also requesting variations for the number of parking spaces, the amount of open space, and the size of their signage. A Public Hearing to review those variation requests was held last Thursday, November 7, 2019, by the Zoning Board of Appeals and the Zoning Board of Appeals voted unanimously to recommend approval of those variations. The Staff is recommending approval of the petitioner's request for Site Plan and Special Use permits subject to the conditions and findings of facts as laid out in the staff memo.

**R. Hanlon** turns the floor over to **Dana Bollman** to make her presentation. **J. Lemberg** asks if anyone else will be giving testimony along with petitioner. **J. Lemberg** swears in **D. Bollman**.

**D. Bollman** introduced herself as being there with her parents, Jim and Mary Ann Bollman, the property owners. She stated that they have a lot of experience in the bar/restaurant industry. She also stated that what they intend to do inside the building and outside the building. The front of the property will be the main bar and restaurant area and that will be open during the day and night. The back of the venue will be open for karaoke and potentially live bands, and possibly private parties. It is entirely separate from the restaurant and could be used for something private in the back. She also stated that they are planning to do a patio outside and she knows that there is a lot of concern about noise outside. She stated that they have no intention of playing loud music outside and they foresee background music, sporting events, and possibly an acoustic guitar performance. That is something





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they do not plan to play into the late night. In order to ensure that they restrict noise going to the neighbors, they have installed an eight foot (8') fence that is almost identical to what IDOT installs to cut down on sound. The patio would only be open weather permitting and will not be open all year round. There will be no smoking permitted outside. **J. Lemberg** questioned if this Commission has seen the Form Based Code. **R. Hanlon** stated that the Form Based Code has gone before the Zoning Board of Appeals which held the Public Hearing and they reviewed the proposed code amendment. They made a positive recommendation and it is going to the Village Board at the next board meeting. **J. Lemberg** asked the petitioner about drawing C.2 and if the gate in the front was three feet (3') wide or three feet (3') feet tall. **D. Bollman** confirmed that the gate is three feet (3') wide. **J. Lemberg** asked if the gate in the back is four feet (4') wide. **D. Bollman** stated, yes, the gate in the back is four feet (4') wide. **J. Lemberg** stated that the gates open to the inside instead of out, and asked if the Fire Department approved that. **R. Hanlon** answered that the Fire Department has not reviewed that yet. There will have to be emergency ingress and egress of the outdoor area. They are aware of that and the Fire Department will review that before a building permit is issued. **D. Bollman** stated that the Fire Marshall has looked at the location and they have asked for recommendations. **J. Lemberg** asked about drawing L401 showing the controlled entrance and exit, and asked who controls it. **D. Bollman** stated that they plan on that being an entrance and exit. She knows that has been a concern. They wanted somebody to man that entrance in order to see who would come in and out. **D. Bollman** stated that they have left that to whatever the recommendation would be. If they want that to be an emergency exit, they are fine with that and whatever the recommendation would be they are willing to follow. **J. Lemberg** stated that on the same drawing it says that rear entrance and will that be something that the public will be using. **D. Bollman** said they have not gotten positive feedback about that and that they are fine with that just being an emergency exit controlled with a push bar that opens to the outside. **J. Lemberg** asked if there any questions. **A. Hopkins** asked how many TVs do they plan on having. **D. Bollman** stated that they were thinking maybe three or four for background. **A. Hopkins** asked if they plan on having security cameras. **D. Bollman** answered, yes. **D. Gunsteen** questioned Staff if the Code requires an eight foot (8') fence along the front. **R. Hanlon** stated that the code does not require an eight foot (8') fence, but they chose the eight foot (8') fence in an attempt to try to mitigate noise. **D. Gunsteen** stated that the fence in the front was picket fence. **D. Bollman** stated that it was a wrought-iron fence. **D. Gunsteen** stated that he thought eight feet (8') was a little tall. **D. Bollman** stated that it actually was a really nice looking fence that looks like it is brick. **D. Gunsteen** asked if this was the picket fence in the front. **D. Bollman** stated that they plan on putting greenery in the front. **A. Hopkins** asked if the outdoor seating was just seasonal. **D. Bollman** stated that they would like to put some sort of roofing over the entire bar, but it would not be something they could do through the winter.

**J. Lemberg** asked if there are any additional comments or questions.

**J. Lemberg** opened the public portion of the meeting.

**M. Werden** of 431 S. Main Street stated that he was concerned about the outdoor noise and how late it might be because there is a residence that is almost completed above JCs and Mike Kelly plans to have one also in the near future. He stated that if they have that every night might be a little bit much because of the residence that would be above on both sides and maybe it should be limited to only weekends and not past 8:00 or 9:00. His major concern is that the JCs customers might be disturbed.

**Luz Alvarez** owner of JCs Mexican Restaurant at 130 W. Main Street stated that the more businesses would be great for more traffic in the downtown area and it will help increase business, especially in the wintertime. When she found out they were going to have live music outside she got concerned





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because she is planning to live upstairs on the second floor. Also, some of her customers told her that when O'Hare's had live music outside for Heritage Days, they could not hear the music that JCs was playing. It was explained that the music will not be too loud. She stated that she was also concerned about smoking and she does not allow anybody outside of her restaurant to smoke.

**Luis Alvarez** of 534 Kathy Lane is Luz's son and they run JCs together. He stated JCs is a family restaurant. They have not installed any of the casino machines in their business specifically because they want to maintain their status as a family business. He stated that they are happy to see new business come to the downtown area because there will be more customers visiting despite all of the downtown logistical issues as far as traffic and parking. He stated that he hopes any businesses that come to the downtown area are good enough to stay long term and bring in more business from surrounding areas not just Bartlett. He stated that they welcome them as new neighbors and hope they will be successful. His concern is the conduct of patrons of a bar, as the noise level can be high. Smoking is another issue. He stated that although there are laws that state where you can smoke it is hardly ever enforced and not very effective because when you are outside the wind can move the smoke. He stated that the indoor live music is not an issue. It is the outdoor live music. Outdoor noise will affect them. A freight train has 80 decibels of noise and a karaoke bar according to the "Medical Journal" can have 95 to 115 decibels. That is noisier than freight train. He stated that he likes the fact that they are not planning on having outdoor amplified music. He would like to be able to work together and not interfere with one another.

**Mike Kelly** of 229 Patricia Lane and building owner of 118 E. Bartlett Avenue, which is next door. He stated that he had a number of concerns. Within 250 feet there are 11 families that live within 250 of the property and the sound of the outdoor music will travel. The Staff referenced an Amplifiers Ordinance, but that is for individual events. They can hear those on Patricia Lane, but that is only six or seven times a year. Seven nights a week of outdoor music would affect everyone. He would not put his addition on the top of his building if the property was given permission for seven nights a week. He stated that the best thing that has happened on that street was the addition of JCs. He reminded the Commission that the Village is doing an overall plan for downtown and a big part of that is the mixed use to bring in people. They encouraged residences above the buildings. They will be driven away with outdoor music. He stated that he wishes them well, but to think strongly about the outdoor noise.

**John Iserd** stated that he measured the distance from the new restaurant to his home and it was about 400 feet. His big concern is the noise factor from a live band outside playing until 11:00 p.m. at night most nights a week.

**J. Lemberg** asked if there are any additional comments or questions.

**D. Bollman** added that the building is all concrete and she does not foresee any noise amplifying outside of the building. She also stated that they are not talking about having hair bands or craziness where the music is screeching or will be disruptive. They want to be good neighbors and they understand everybody's concerns and that people live close to the area. The entertainment outside would be very similar to what they play at JCs. It would be background light music to give atmosphere. The live entertainment outside would be acoustic; one guy with a guitar signing on the weekends. Any noise during the week would be if a Cubs or Sox game is on and they wanted to listen to the commentary. When they first proposed this, they did offer to provide a designated smoking area in the back of the property because of the issue with people going out front to smoke and there were people there eating dinner. That was not recommended so they let that go. She does want the neighbors to know that was on their mind. They did not want it to be a burden or a problem for





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anybody else. The Village did not think that would be necessary. She understands they did not want to promote smoking.

**J. Lemberg** asked if there are any additional comments or questions.

**A. Hopkins** asked why not a designated smoking area in the back. Was that something from Staff or the Zoning Board. He thinks that would be a good thing to have. **D. Bollman** stated that was something they proposed in one of the first meetings with the Village. They were trying to solve the problem. **A. Hopkins** stated that there are going to be people that smoke. They are either going to go out front 15 ft from the door, which is going to be near another business or out in the street. There is no room out front for people to go smoke. They are going to have to go across the street by the tracks. Why not figure out something in the back. **D. Bollman** stated that they were thinking something with a roof. Nothing to promote it. **A. Hopkins** stated that that people are going to do it. We have to have a safe place for them to go. We do not want them crossing the street. We do not want additional liabilities. **D. Bollman** stated that in the back, it would not interfere with anybody. **A. Hopkins** agreed, it would get people out of the way and he feels if there is room in the back, but make it so they are not lingering. He stated that he thinks it would be better than having people in the front smoking while people are looking around for a place to eat and they just see people out front smoking. He would rather keep people in the back. **J. Allen** also agreed that it would be better to have somewhere to go in the back where people could smoke. **A. Hopkins** stated that the Village Board should discuss it and figure out the best solution. He thinks it would be good for smokers to have a designated area to go. It is safer. **D. Gunsteen** agreed with A. Hopkins that the smoking should be in the rear. Bartlett Tap also has smoking in the back. **A. Hopkins** stated that he will put an Amendment onto the motion for the Village Board to look into it as well. **R. Hanlon** added that as the Staff went through the Site Plans and the area is tight and a very narrow lot. There is space needed for cars to maneuver, so it was difficult to find a spot to build a deck or permanent improvement, because the back of the site is really tight. **D. Gunsteen** asked if there was a way to designate a painted striped area with a sign that says "smoking area" in the back with a sign by the front door that says "smoking in the back." **J. Kallas** asked how many employees they will have. **D. Bollman** stated that during the summer a full staff would be 10 to 15. That would be only when everything is up and running. During the day-to-day operations with just the front open, maybe 3 to 4. That will be something they will figure out when they see how busy they are as far as staffing. **J. Kallas** stated that he was thinking about the problems with parking and that there are only three spots in the back and not enough handicap parking in the front. **R. Grill** stated that there is a handicap space in the front, but you might have to walk a little bit. Staff can look into additional handicap parking. **J. Kallas** stated that he would like to stay away from outdoor completely with no audio and no video. He does not think an eight foot (8') fence is going to be enough to control the noise. He also stated that the signage should be what our ordinance calls for. He is concerned that even voices will be too loud. He would like to put into motion restricting the time for outside to closing at 9:30 p.m. Sunday through Thursday and closing at 10:30 p.m. Friday and Saturday. He would like to put that in the motion. He asked, how many machines are they going to have? **D. Bollman** answered that they have not applied for the license yet. **J. Allen** stated that we cannot expect them to shut down at 9:30. A younger crowd will expect video. They will not sit outside with no TVs and no sound. It will not be a successful restaurant without video at least outside. **A. Hopkins** agreed that we do not have restrictions on other outdoor areas in downtown and disagrees with the 9:00 hour. **J. Lemberg** asked **J. Kallas** what items he would like to put up for motion. J. Kallas still feels there should be some restrictions and that just voices alone are going to be noisy. **J. Lemberg** asked if there is anyone on Commission that agrees with Jerry's ideas and thought. No one agreed. **R. Hanlon** asked if they would be interested in adding a condition that no amplified live entertainment would be allowed outdoors. **A. Hopkins** stated that he would not want to restrict that because if for one night



**Village of Bartlett  
Plan Commission Meeting Minutes  
November 14, 2019**

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they wanted to have an acoustic player out there they would have to amplify it some way, but he does not want to limit amplification of music to only two people that can perform. **A. Hopkins** thinks that we should leave it as is and if they exceed the code for sound levels someone can call the police and give them a citation. **R. Hanlon** also suggests an added condition of working with Staff to find a designated smoking area.

**J. Lemberg** asks if we are done with discussion and are we ready for motion.

**J. Kallas** asked about the sign ordinance. **R. Grill** stated that the Public Hearing for the variation request was reviewed and recommended for approval by the Zoning Board of Appeals.

**J. Lemberg** asked for a motion to approve the petitioners request for site plan review and Special Use Permits to allow a Restaurant with Alcohol Service, Outdoor Seating and Live Entertainment (indoor and outdoor) with conditions and Findings of Fact outlined in the Staff Report and **R. Grill** stated that staff will work on adding the designated smoking area.

**Motioned by: D. Negele**  
**Seconded by: A. Hopkins**

**Roll Call**

**Ayes: J. Miaso, J. Allen, D. Negele, A. Hopkins, D. Gunsteen**  
**Nays: J. Kallas**

**Motion carried.**



Kevin Wallace, Board President &  
Board of Trustees  
Village of Bartlett

August 29, 2019

RE: 120 West Bartlett Avenue

At 120 W. Bartlett Ave., we would like to develop a family-friendly restaurant and social gathering establishment that offers many entertainment options.

Options we would like to offer include a menu of our homemade special recipe pizzas, chicken wings & other appetizers, pub burgers, sandwiches to mention a few, along with weekly specials. We would also like to offer a full bar including beer, wine and spirits.

Entertainment would include live bands, karaoke, trivia nights, music bingo and gaming machines.

This project includes a large outdoor seating area patio that can be utilized for many purposes including enjoying a pizza or sandwich, watching a sporting event, live entertainment or just socializing outdoor with family and friends.

For this project, we are requesting the following variations: outdoor seating that would include a bar and table seating.

A liquor license to allow us to serve a variety of beer, wine & spirits indoor and outdoor.

The option to have live entertainment indoor and outdoor to include live bands, karaoke and trivia.

An 8-foot fence around the entire outdoor seating area for safety, security and noise control. The fence we would like to use is a vinyl faux brick material that will need little maintenance and will last for years to come.

We are also requesting permission for our patrons to utilize Village parking around 120 W. Bartlett Ave.

We thank you for this opportunity to bring our business to Bartlett and look forward to serving the Bartlett community.

*Dana Ballman*



# VILLAGE OF BARTLETT DEVELOPMENT APPLICATION

For Office Use Only  
Case # 19-12  
RECEIVED  
COMMUNITY DEVELOPMENT  
*(Village Stamp)*  
VILLAGE OF  
BARTLETT

**PROJECT NAME** 120 West Bartlett

**PETITIONER INFORMATION (PRIMARY CONTACT)**

**Name:** Mary Ann Bollman & Dana Bollman

**Street Address:** [REDACTED]

**City, State:** [REDACTED]

**Zip Code:** [REDACTED]

**Email Address:** [REDACTED]

**Phone Number:** [REDACTED]

**Preferred Method to be contacted:** See Dropdown

**PROPERTY OWNER INFORMATION**

**Name:** Mary Ann Bollman LLC

**Street Address:** [REDACTED]

**City, State:** [REDACTED]

**Zip Code:** [REDACTED]

**Phone Number:** [REDACTED]

**OWNER'S SIGNATURE:** Dana Bollman **Date:** 8/28/19  
*(OWNER'S SIGNATURE IS REQUIRED or A LETTER AUTHORIZING THE PETITION SUBMITTAL.)*

**ACTION REQUESTED** (Please check all that apply)

- Annexation
- PUD (preliminary)
- PUD (final)
- Subdivision (preliminary)
- Subdivision (final)
- Site Plan (please describe use: commercial, industrial, square footage): establish restaurant on developed lot
- Unified Business Center Sign Plan
- Other (please describe) 8 foot fence around outdoor seating area & 60 square foot signage on front of the building
- Text Amendment
- Rezoning See Dropdown to See Dropdown
- Special Use for: outdoor seating, alcohol sales, live entertainment inside and out
- Variation: number of required parking spaces & percentage open space required

**SIGN PLAN REQUIRED?** See Dropdown

(Note: A Unified Business Center Sign Plan is required for four or more individual offices or businesses sharing a common building entrance or private parking lot.)

**PROPERTY INFORMATION**

Common Address/General Location of Property: 120 W. Bartlett

Property Index Number ("Tax PIN"/"Parcel ID"): 06-34-405-018-000

Zoning: Existing: B-1  Land Use: Existing: Commercial   
(Refer to Official Zoning Map)  
Proposed: B-1  Proposed: Commercial

Comprehensive Plan Designation for this Property: Commercial   
(Refer to Future Land Use Map)

Acreage: \_\_\_\_\_

**For PUD's and Subdivisions:**

No. of Lots/Units: \_\_\_\_\_  
Minimum Lot: Area \_\_\_\_\_ Width \_\_\_\_\_ Depth \_\_\_\_\_  
Average Lot: Area \_\_\_\_\_ Width \_\_\_\_\_ Depth \_\_\_\_\_

**APPLICANT'S EXPERTS** (If applicable, including name, address, phone and email)

**Attorney** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Engineer** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Other** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **FINDINGS OF FACT (Standards)**

The Village of Bartlett Zoning Ordinance requires that certain findings of fact, or standards, must be met before a special use permit, variation, site plan or planned unit development may be granted. Each application for a hearing before the Plan Commission or Zoning Board of Appeals for a special use, variation, site plan or planned unit development must address the required findings of fact for each particular request. The petitioner should be aware that he or she must present specific testimony at the hearing with regards to the findings. **(On the following pages are the findings of fact, or standards, to be met. Please respond to each standard, in writing, as it relates to the case.)**

**\*\*PLEASE FILL OUT THE FOLLOWING FINDINGS OF FACT AS THEY  
RELATE TO YOUR PETITION\*\***

Findings of Fact for **Site Plans**: Pages 4-5

Findings of Fact for **Planned Unit Developments**: Pages 6-9

Findings of Fact for **Special Uses**: Page 10

Findings of Fact for **Variations**: Pages 11-12

**FINDINGS OF FACT FOR SITE PLANS**

Both the Plan Commission and Village Board must decide if the requested Site Plan meets the standards established by the Village of Bartlett Zoning Ordinance.

The Plan Commission shall make findings based upon evidence presented on the following standards: **(Please respond to each of these standards in writing below as it relates to your case. It is important that you write legibly or type your responses as this application will be included with the staff report for the Plan Commission and Village Board to review.)**

1. The proposed use is a permitted use in the district in which the property is located.

Yes

2. The proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses.

Yes. Same arrangement as other properties on block.

3. The vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well.

Yes. No changes to ingress or egress anticipated.



4. The site plan provides for the safe movement of pedestrians within the site.

Yes. No changes to pedestrian ways are proposed.

5. There is sufficient mixture of grass, trees and shrubs within the interior and perimeter (including public right-of-way) of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for buildings, structures, parking or accessways shall be landscaped with a mixture of grass, trees and shrubs. (All landscape improvements shall be in compliance with Chapter 10-11A, Landscape Requirements)

Yes. Existing landscaped area on the perimeter of the property will be maintained.

6. All outdoor storage areas are screened and are in accordance with standards specified by this Ordinance.

No outdoor storage is proposed.

**FINDINGS OF FACT FOR PLANNED UNIT DEVELOPMENTS**

Both the Plan Commission and Village Board must decide if the requested Planned Unit Development meets the standards established by the Village of Bartlett Zoning Ordinance.

The Plan Commission shall make findings based upon evidence presented on the following standards: **(Please respond to each of these standards in writing below as it relates to your case. It is important that you write legibly or type your responses as this application will be included with the staff report for the Plan Commission and Village Board to review.)**

1. The proposed Planned Unit Development is desirable to provide a mix of uses which are in the interest of public convenience and will contribute to the general welfare of the community.

Yes. Redeveloping this property with an active use will contribute to the neighborhood.

2. The Planned Unit Development will not under the circumstances of the particular case be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or be injurious to property value or improvement in the vicinity.

Yes. Redeveloping this property will improve the neighborhood.

3. The Planned Unit Development shall conform to the regulations and conditions specified in the Title for such use and with the stipulation and conditions made a part of the authorization granted by the Village Board of Trustees.

Yes. Business will be operated in compliance will all applicable laws.

**FINDINGS OF FACT FOR SPECIAL USES**

Both the Plan Commission and Village Board must decide if the requested Special Use meets the standards established by the Village of Bartlett Zoning Ordinance.

The Plan Commission shall make findings based upon evidence presented on the following standards: **(Please respond to each of these standards in writing below as it relates to your case. It is important that you write legibly or type your responses as this application will be included with the staff report for the Plan Commission and Village Board to review.)**

1. That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.

Yes. Redeveloping this property with an active use will contribute to the neighborhood.

2. That such use will not under the circumstances of the particular case be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or be injurious to property value or improvement in the vicinity.

Yes. Redeveloping this property will improve the neighborhood.

3. That the special use shall conform to the regulations and conditions specified in this Title for such use and with the stipulation and conditions made a part of the authorization granted by the Village Board of Trustees.

Yes. Business will be operated in compliance with all applicable laws.

**FINDINGS OF FACT FOR VARIATIONS**

Both the Zoning Board of Appeals and the Village Board must decide if the requested variation is in harmony with the general purpose and intent of the Zoning Ordinance and if there is a practical difficulty or hardship in carrying out the strict letter of the regulations of the Zoning Ordinance.

The Zoning Board of Appeals shall make findings based upon evidence presented on the following standards: **(Please respond to each of these standards in writing below as it relates to your case. It is important that you write legibly or type your responses as this application will be included with the staff report for the ZBA and Village Board to review.)**

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

Hardship is created due to the limited size of developed lot.

2. That conditions upon which the petition for a variation is based are unique to the property for which the variation is sought and are not applicable, generally, to other property within the same zoning classifications.

Historic downtown area pattern relies upon public parking which is readily available.

3. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property.

True.

4. That the alleged difficulty or hardship is caused by the provisions of this Title and has not been created by any person presently having an interest in the property.

True.

5. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhoods in which the property is located.

True.

6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

True.

7. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this Title to other lands, structures or buildings in the same district.

Other properties have received same variation.



**ACKNOWLEDGEMENT**

I understand that by signing this form, that the property in question may be visited by village staff and Board/Commission members throughout the petition process and that the petitioner listed above will be the primary contact for all correspondence issued by the village.

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that I am to file this application and act on behalf of the above signatures.

Any late, incomplete or non-conforming application submittal will not be processed until ALL materials and fees have been submitted.

SIGNATURE OF PETITIONER: Dana Bollman

PRINT NAME: Mary Ann Bollman LLC

DATE: 8/28/19

**REIMBURSEMENT OF CONSULTANT FEES AGREEMENT**

The undersigned hereby acknowledges his/her obligation to reimburse the Village of Bartlett for all necessary and reasonable expenses incurred by the Village for review and processing of the application. Further, the undersigned acknowledges that he/she understands that these expenses will be billed on an ongoing basis as they are incurred and will be due within thirty days. All reviews of the petition will be discontinued if the expenses have not been paid within that period. Such expenses may include, but are not limited to: attorney's fees, engineer fees, public advertising expenses, and recording fees. Please complete the information below and sign.

NAME OF PERSON TO BE BILLED: Mary Ann Bollman LLC

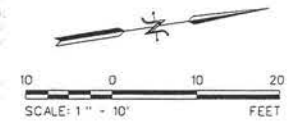
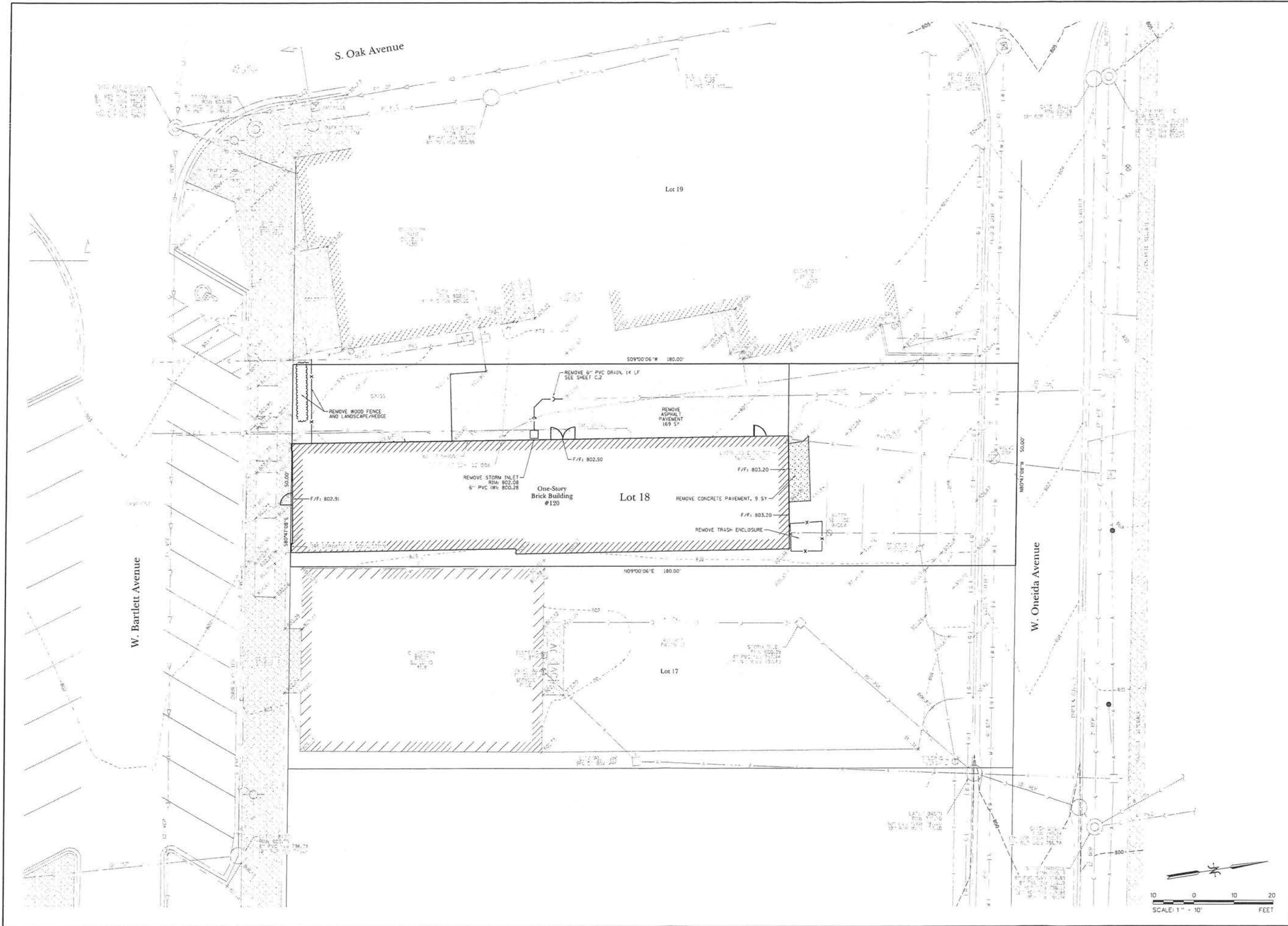
ADDRESS: [REDACTED]


PHONE NUMBER: [REDACTED]

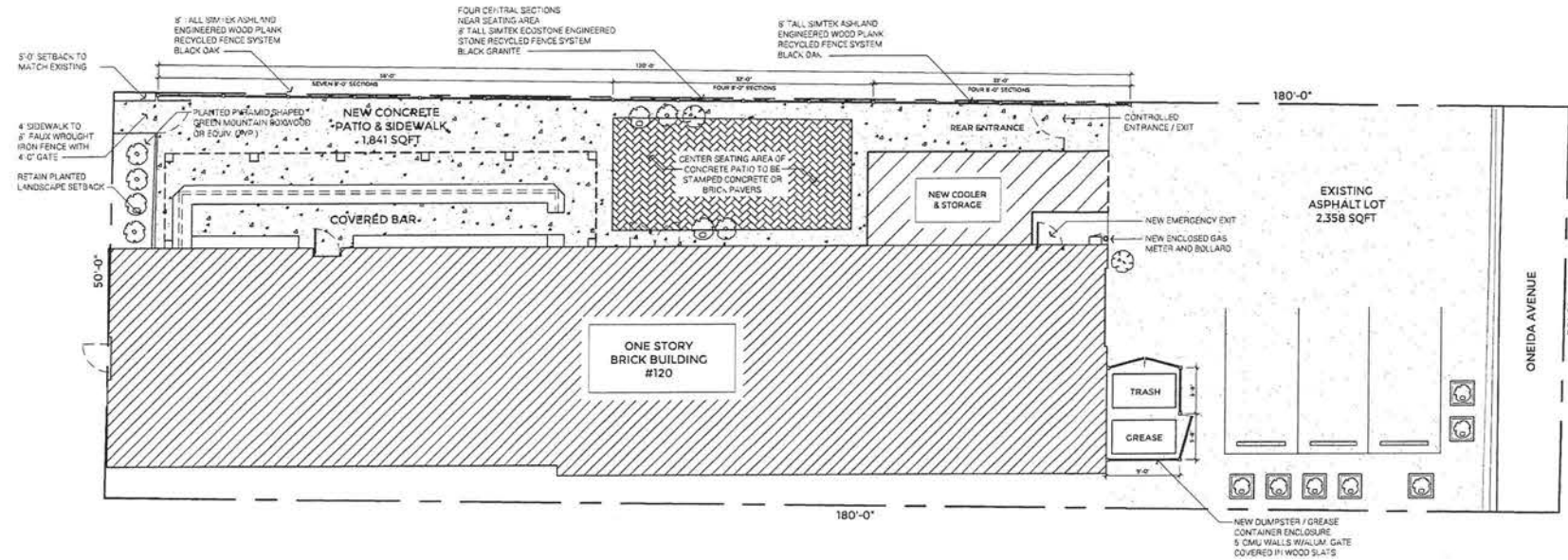
EMAIL: [REDACTED]

SIGNATURE: Dana Bollman, manager

DATE: 8/28/19



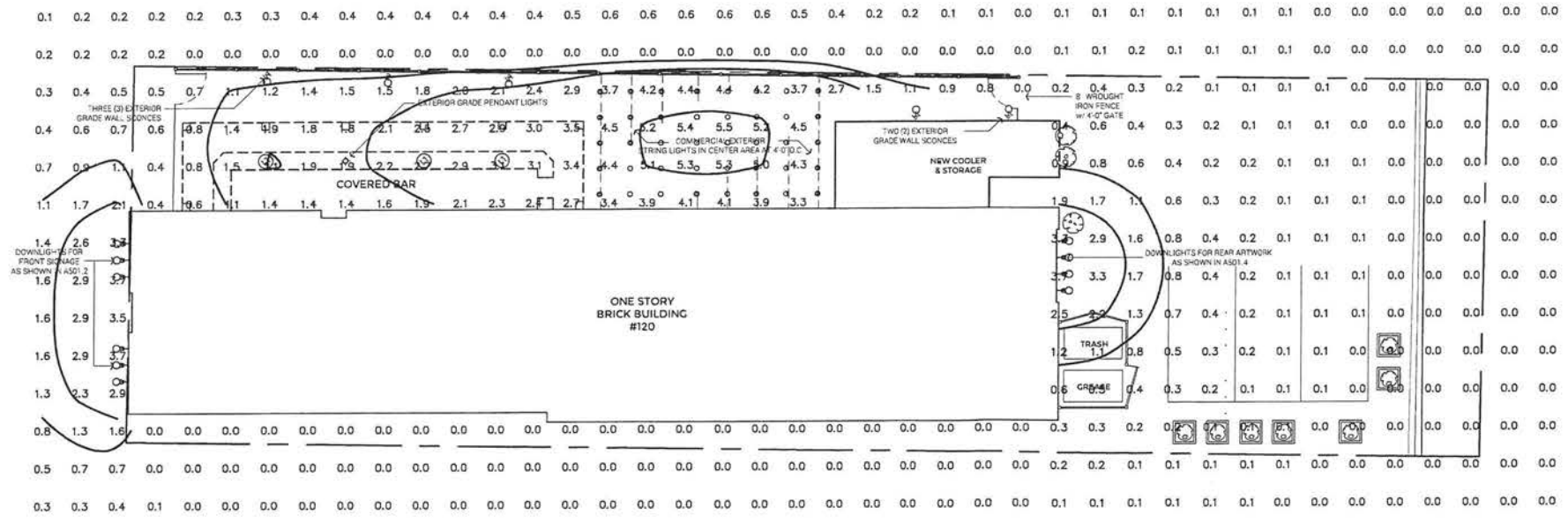
<b>120 S. Bartlett Avenue Site Improvements</b> <b>Existing Conditions</b> <b>Bartlett, Cook County, Illinois</b>		 <b>TROTTER ASSOCIATES, INC.</b> ENGINEERS AND SURVEYORS 400 West Wacker Road, Suite D N. Chicago, IL 60675 TEL: 847.581.1111 FAX: 847.581.0125	PROJECT STAFF PROJECT MANAGER: CHRIS LUTHE PROJECT ENGINEER: JIM MARSHALL, PLS. SURVEYOR: JAMES W. TROTTER SURVEYOR: WEAVER W. TROTTER SURVEYOR: JAMES W. TROTTER	DATE:
Project No.: 80L002	File Name: C.1.dgn		Plot Date: 10/10/2019	Scale: 1" = 10' Sheet Number <b>C.1</b>



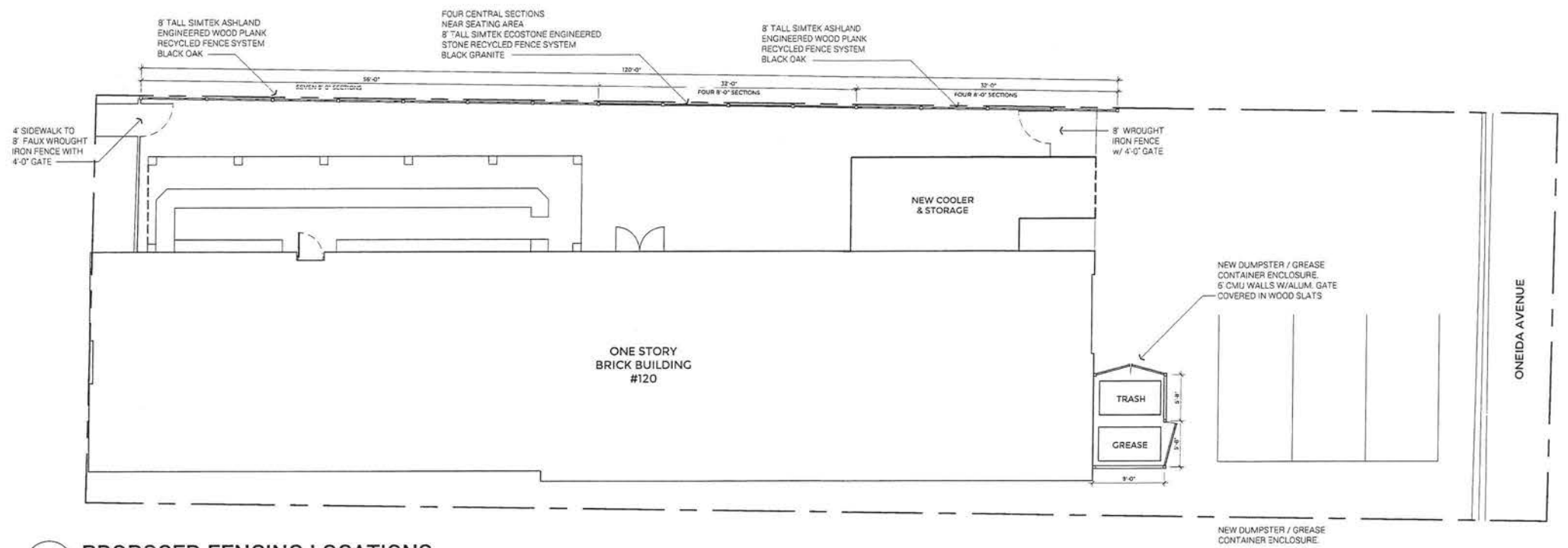
**IMPERVIOUS SURFACE CALCULATIONS**

EXISTING	
778 SQFT	= 8.6%
9,000 SQFT	
PROPOSED	
79 SQFT	= 0.8%
9,000 SQFT	

**1 SITE PLAN**  
SCALE: 1" = 10'-0"

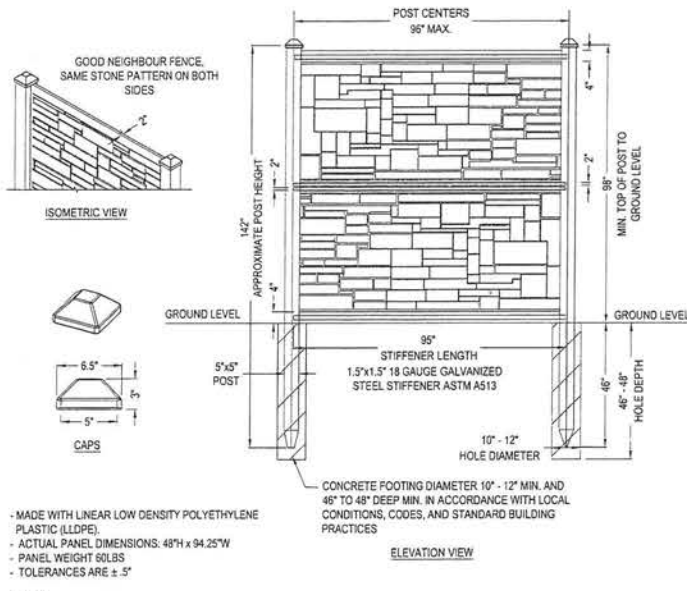


**2 EXTERIOR PHOTOMETRIC LIGHTING PLAN**  
SCALE: 1" = 10'-0"



**1 PROPOSED FENCING LOCATIONS**  
SCALE: 3/16" = 1'-0"

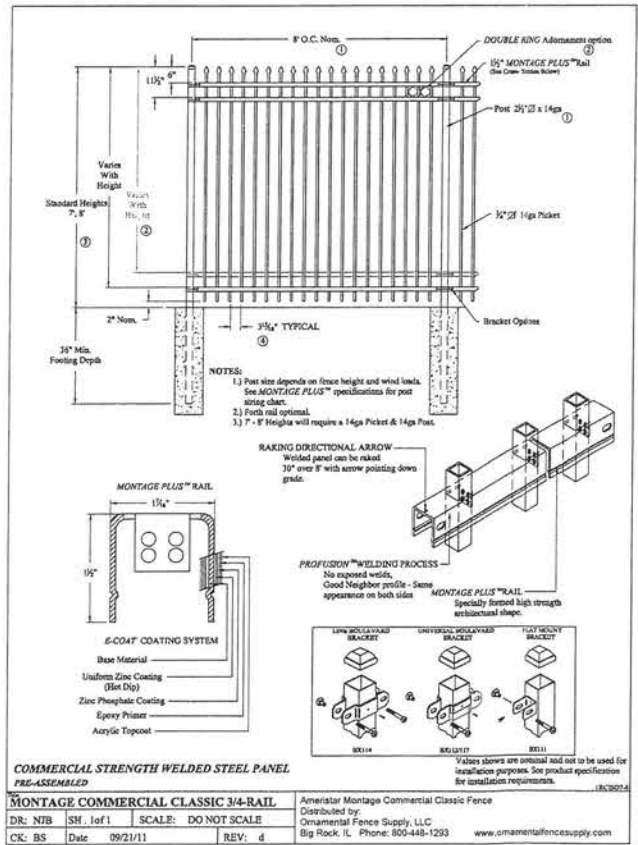
**SimTek™ FENCE**  
1330 WEST 400 NORTH  
OREM, UT 84057  
TOLL FREE: 1-866-648-9336  
PHONE: (801) 655-5236  
FAX: (801) 655-5240  
www.simtekfence.com



MADE WITH LINEAR LOW DENSITY POLYETHYLENE PLASTIC (LLDPE).  
ACTUAL PANEL DIMENSIONS: 48"H x 94.25"W  
PANEL WEIGHT 60 LBS  
TOLERANCES ARE ± 5"

NOTES:  
1. US PATENTS 7,478,797 / 7,635,114 FOREIGN PATENTS PENDING.  
2. INSTALLATION TO BE COMPLETED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.  
3. ALL DIMENSIONS ARE CONSIDERED TRUE AND REFLECT MANUFACTURER'S SPECIFICATIONS.  
4. DO NOT SCALE DRAWING.  
5. CONTRACTOR'S NOTE: FOR PRODUCT AND COMPANY INFORMATION VISIT [www.CADdetails.com/info](http://www.CADdetails.com/info)  
REFERENCE NUMBER 4312-004.

**2 FENCING DETAILS**  
SCALE: NTS

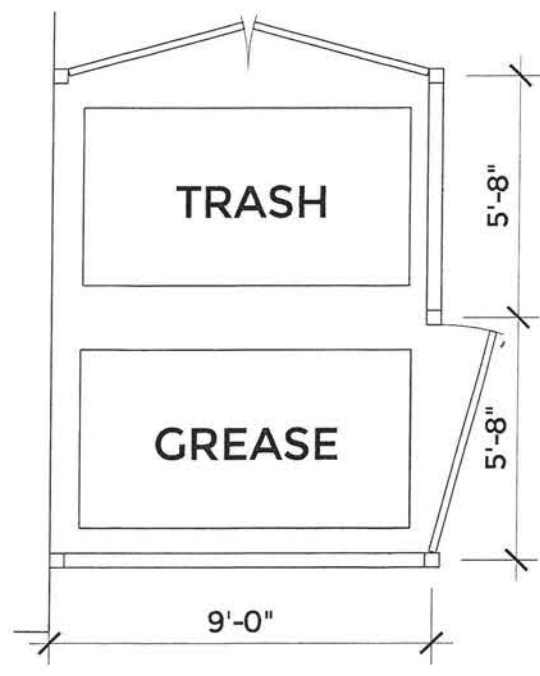


**COMMERCIAL STRENGTH WELDED STEEL PANEL**  
FRG-ASSEMBLED

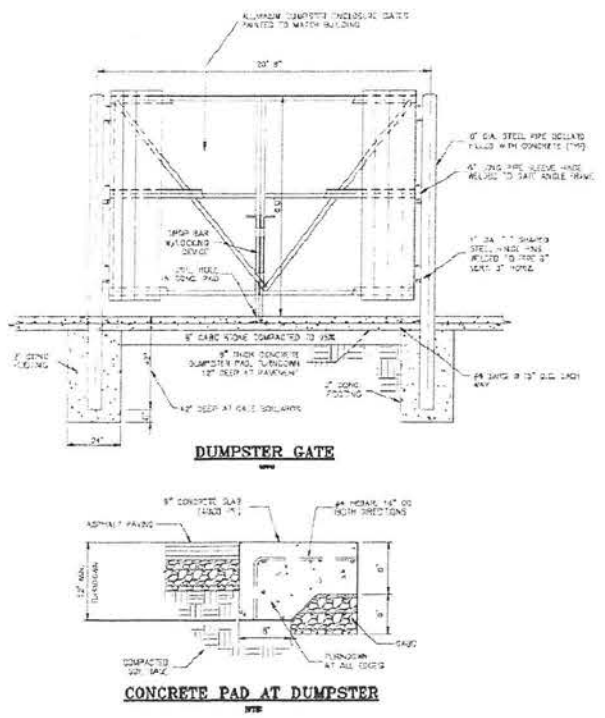
DR: NJB	SH: jof.1	SCALE: DO NOT SCALE
CK: BS	Date: 09/21/11	REV: d

Ameristar Montage Commercial Classic Fence  
Distributed by:  
Ornamental Fence Supply, LLC  
Big Rock, IL. Phone: 800-448-1293 www.ornamentalfencesupply.com

**3 FENCING DETAILS**  
SCALE: NTS



**4 TRASH ENCLOSURE**  
SCALE: 1/2" = 1'-0"

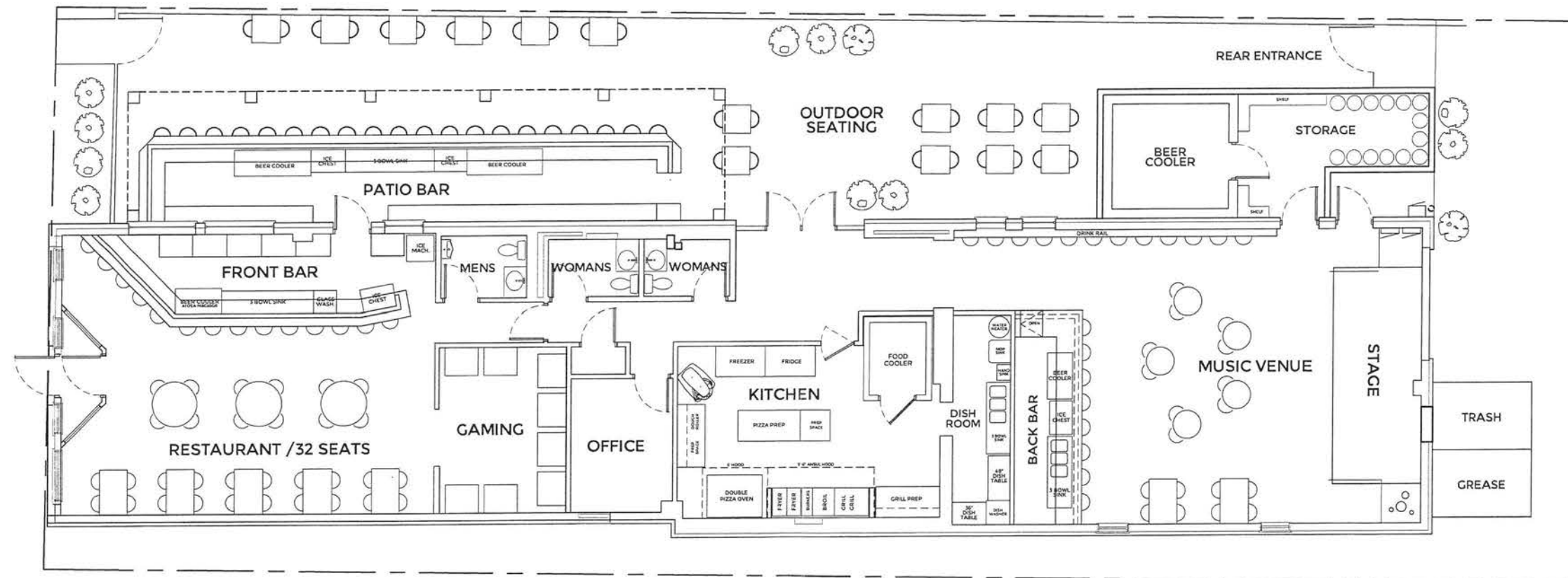


**5 ENCLOSURE DETAILS**  
SCALE: NTS

**FENCING DETAILS**  
PROPOSED

DESIGN DEVELOPMENT  
10 OCT 2019

L401



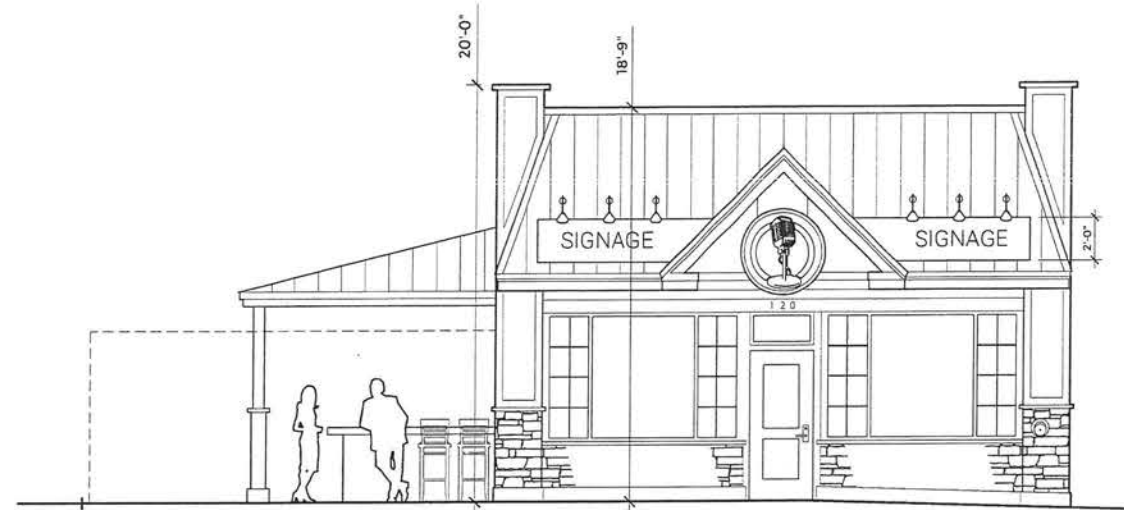
**1 PROPOSED FLOOR PLAN**  
SCALE: 3/16" = 1'-0"

**FLOOR PLAN**  
PROPOSED

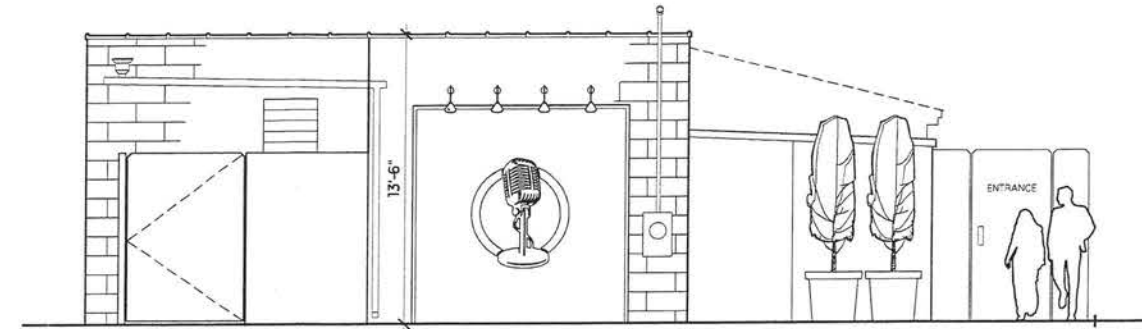
ZONING REVIEW  
10 OCT 2019

A101

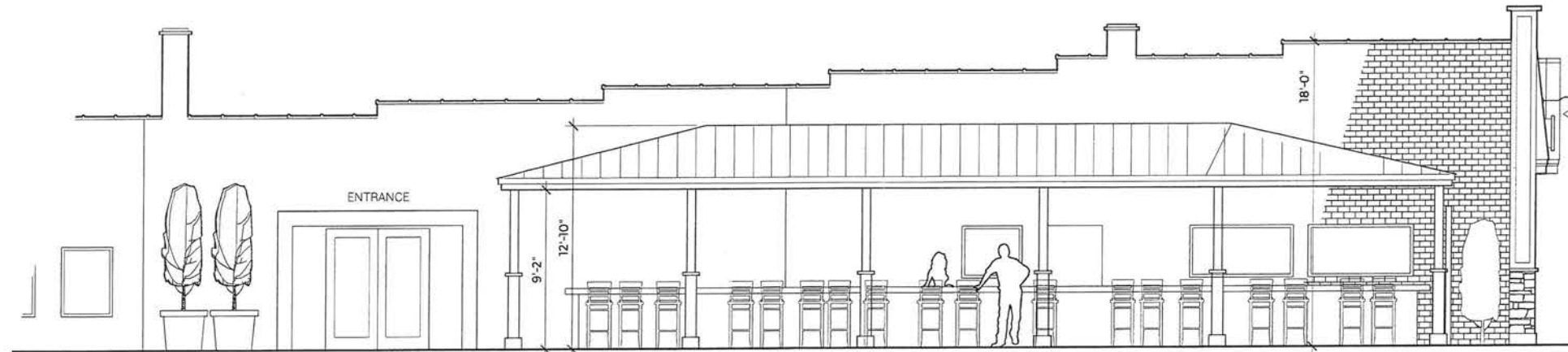




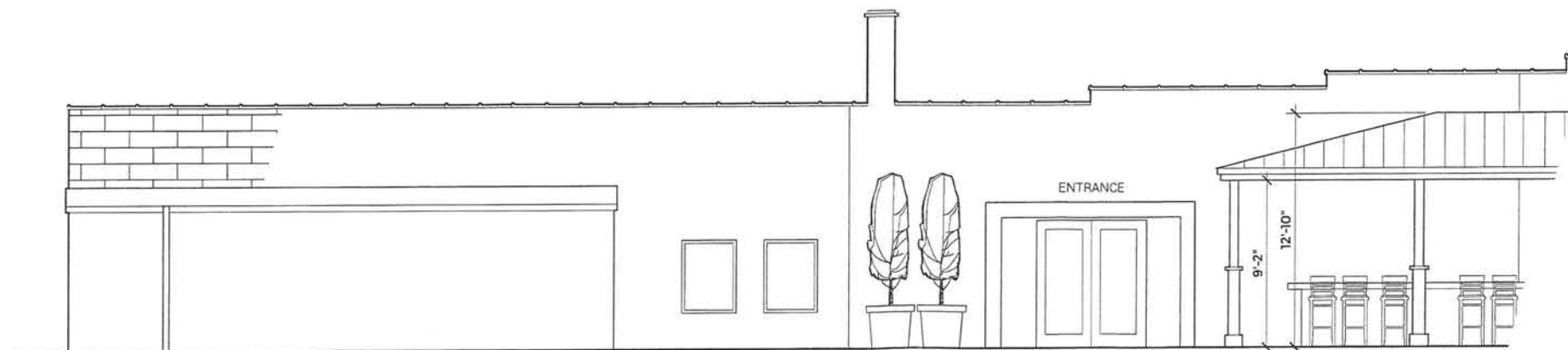
**1 SOUTH ELEVATION**  
 SCALE: 1/4" = 1'-0"



**2 NORTH ELEVATION**  
 SCALE: 1/4" = 1'-0"



**3A WEST ELEVATION / FRONT**  
 SCALE: 1/4" = 1'-0"

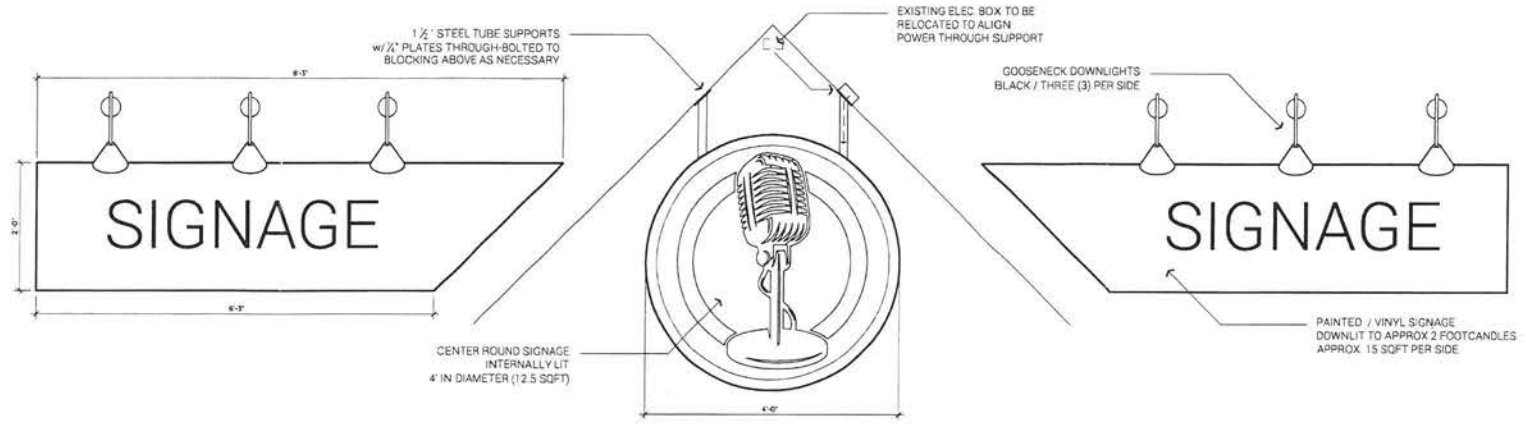


**3B WEST ELEVATION / REAR**  
 SCALE: 1/4" = 1'-0"

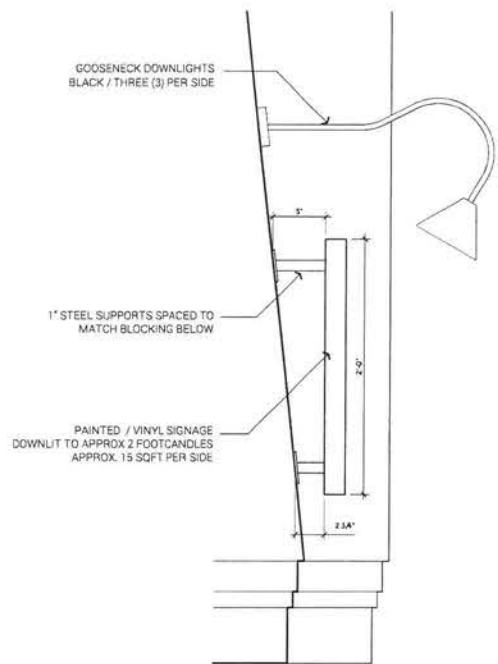




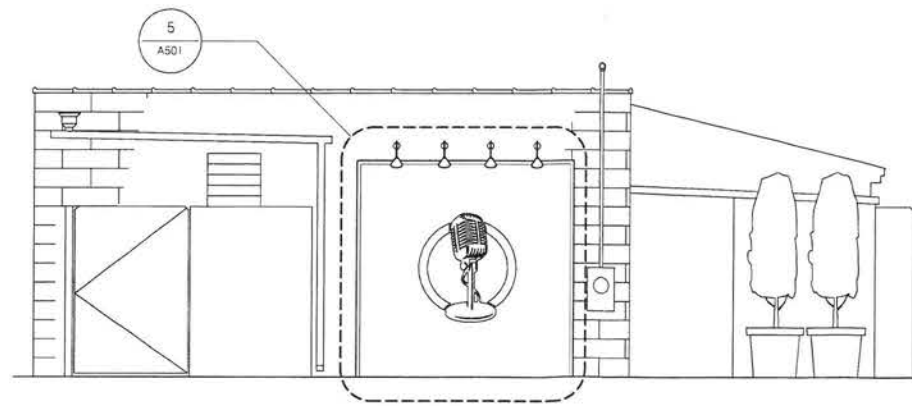
**1 SOUTH (FRONT) SIGNAGE**  
SCALE: 1/4" = 1'-0"



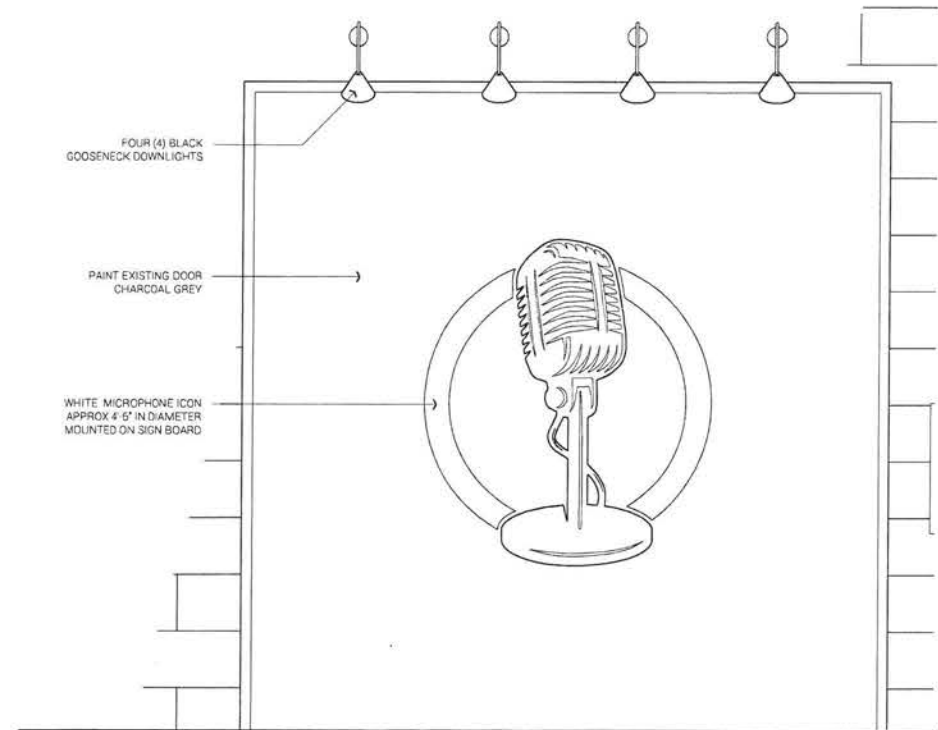
**2 SOUTH (FRONT) SIGNAGE DETAILS**  
SCALE: 3/4" = 1'-0"



**3 SOUTH (FRONT) SIGNAGE DETAIL**  
SCALE: 1-1/2" = 1'-0"



**4 NORTH (REAR) SIGNAGE**  
SCALE: 1/4" = 1'-0"



**5 NORTH (REAR) SIGNAGE DETAILS**  
SCALE: 3/4" = 1'-0"

**SIGNAGE**  
PROPOSED

ZONING REVIEW  
10 OCT 2019

A501



# DOWNTOWN PARKING

Type

- FREE
- DAILY METRA
- PERMIT METRA

Parking Lot Name	Designation	# of Spaces	Availability	
			Workday	Evening
Lot 3	Metra Permit	45	0	37
Lot 5	Metra Permit	209	100	174
Lot 6.1	Metra Permit	36	0	26
Lot 6.2	Daily Meter	60	33	43
Lot 11	Daily Meter	86	0	55
Lot 4	Daily Meter	58	0	34
Lot 12	Daily Meter	8	0	6
Lot 13	Daily Meter	39	35	37
Lot 7	Daily Meter	32	15	28
Lot 15	Daily Meter	162	30	75
Village Hall	Public Free	35	25	34
Banbury Fair	Public Free	25	17	12
BP Lot	Public Free	24	18	24
Bartlett Avenue (Street)	Public Free	38	9	6
Potential Village Lot	Public Free	22	Unknown	Unkown
Estimated Total Spaces		879	282	591





# 120 W. Bartlett Ave.

PIN: 06-34-405-018





# Agenda Item Executive Summary

Item Name Establishing Trailer and Semitrailer Storage Lots and a Service Tax - Text Amendment Committee or Board Committee

BUDGET IMPACT			
Amount:	N/A	Budgeted	N/A
List what fund	N/A		

**EXECUTIVE SUMMARY**

Recognizing the increase in logistic businesses associated with the rise of e-commerce, staff has received inquiries for establishing trailer and semitrailer storage lots in the Village. Currently, the Village is home to one (1) such storage lot (as part of an annexation agreement); however, an application has been submitted for a second truck/trailer storage yard currently under review by the staff.

Staff researched how other communities regulate these potentially impactful businesses and modeled the attached draft Ordinance utilizing several regulations implemented by these other communities. The proposed text amendment includes the following regulations for trailer and semitrailer storage lots:

- Establishing aesthetic controls such as, but not limited to, paving, fencing (security), and landscaping
- Establishing a service tax of \$300.00 per parking/storage space levied annually
- Establishing licensing criteria for storage lot owners
- Allowing trailer and semitrailer storage lots by Special Use within the I-1 and I-2 EDA Zoning Districts
- Limiting the number of trailer and semitrailer storage lots to a total of three (3) in the Village
- Prohibiting this use in Commercial and Public Lands Zoning Districts

**ATTACHMENTS (PLEASE LIST)**

PDS Memo and Draft Ordinance Amending Title 3 *Business and License Regulations* and Title 10 *Zoning* of the Bartlett Municipal Code

**ACTION REQUESTED**

For Discussion Only – For review and to forward to the Zoning Board of Appeals for further review and to conduct the required public hearing

Resolution

Ordinance

Motion

Staff Roberta Grill, Planning & Development Services Director Date: 11/25/2019



## PLANNING AND DEVELOPMENT SERVICES MEMORANDUM

19-178

DATE: November 25, 2019

TO: Paula Schumacher, Village Administrator

FROM: Roberta B. Grill, Director *RBG*

RE: Trailer and Semitrailer Storage Lots and Service Tax

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### BACKGROUND

The increase in logistic businesses that we are experiencing in the area has brought an increase in the demand for trailer and semitrailer storage lots. Currently, there is one existing storage lot located in the Village of Bartlett and staff is working with an applicant to finalize their zoning application to start the zoning process to establish a second lot. Just outside our corporate limits, trailer and semitrailer storage lots exist in both Kane County and the City of Elgin.

In considering the potential impact to traffic, police services, and property maintenance services, staff researched how other communities are regulating these uses. The Town of Cicero charges an annual service tax on this use within their jurisdiction.

Staff has drafted an amendment to the Municipal Code which will:

- Require lot owners to become licensed with the Village and pay an annual licensing fee of \$500.00.
- Require owners to pay an annual service tax of \$300.00 per parking/storage space annually. This tax will be increased to \$500.00 after December 31, 2025.
- Regulate aesthetics of the parking/storage lot (i.e. fencing, landscaping)
- Establish Trailer and Semitrailer Storage Lot as a Special Use in the I-1 Light Industrial and I-2 EDA Economic Development Overlay Area Zoning Districts.
- Prohibit these lots in the Commercial and Public Lands Zoning Districts.
- Limit the number of storage lots to a total of three (3) at any given time.

### RECOMMENDATION

1. The Staff recommends this proposed Municipal Code Amendment be reviewed and the Zoning Ordinance Text Amendment portion be forwarded to the Zoning Board of Appeals for review and to conduct the required public hearing.
2. A draft Ordinance is attached for your review.

ORDINANCE 2020 - \_\_\_\_\_

AN ORDINANCE AMENDING THE BARTLETT MUNICIPAL CODE  
TITLE 3 BUSINESS AND LICENSE REGULATIONS  
BY ADDING CHAPTER 33: TRAILER AND SEMI-TRAILER  
STORAGE LOT REGULATIONS AND SERVICE TAX

---

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

**SECTION ONE:** That Title 3 of the Bartlett Municipal Code is hereby amended to add Chapter 33 thereto entitled "TRAILER AND SEMI-TRAILER STORAGE LOT AND SERVICE TAX" as follows:

**CHAPTER 33  
TRAILER AND SEMI-TRAILER STORAGE LOT  
REGULATIONS AND SERVICE TAX**

**3-33-1: DEFINITIONS:**

**3-33-2: ADMINISTRATION:**

**3-33-3: APPLICABILITY:**

**3-33-4: TAX IMPOSED:**

**3-33-5: RATE; LIEN:**

**3-33-6: LOT REQUIREMENTS; RESTRICTIONS; REGULATIONS:**

**3-33-7: LICENSE REQUIRED:**

**3-33-8: LIABILITY INSURANCE:**

**3-33-9: ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION AND/OR FINES:**

**3-33-10: PENALTY; ENFORCEMENT:**

**3-33-1: DEFINITIONS:**

The following words and terms shall have the meaning set forth, except where otherwise specifically indicated. Words and terms not defined shall have the meaning indicated by common dictionary definition.

**MOTOR VEHICLE:** Any vehicle which is self-propelled by mechanical or electrical power but not operated upon rails.

**SEMI-TRAILER:** A non-motorized, portable container on wheels that is designed to be attached and pulled for the purpose of transporting primarily goods and materials customarily for commercial purposes over public roads. The size and weight of a semi-trailer enables it to only be pulled by a large truck or semi-tractor. Semi-trailers may be tankers, flatbeds or enclosed.

**TRAILER:** Any vehicle without motive power in operation designed for carrying persons or property and for being drawn by a motor vehicle.

**TRAILER AND SEMI-TRAILER STORAGE LOT:** Any real property where trailers, semi-trailers, and/or truck tractors are stored, repaired, serviced, loaded, unloaded or otherwise parked. All trailer and semi-trailer lots shall be made of a constructed surface, including paved, asphalt, concrete surfaces, and other hard impermeable surfaces, and shall not include any soft ground, including compressed gravel or road grindings. Parking lots shall be required to be appropriately lined or striped for parking spaces consistent with its use and the Village Code, including all zoning and parking regulations.

**TRUCK TRACTOR:** Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn, or a power unit that carries as property motor vehicles when operating in combination with a semi-trailer in transporting motor vehicles or any other commodity, including cargo or general freight, on a backhaul.

**3-33-2: ADMINISTRATION:**

The village treasurer shall administer collection of the tax imposed in Section 3-33-4 at the rates set forth in Section 3-33-5 of this chapter and shall prescribe such regulations regarding payment and reporting of the tax as he or she may from time to time deem necessary. The village administrator shall take all necessary and appropriate action to compel compliance with the regulatory provisions of this chapter.

**33-3-3: APPLICABILITY:**

Nothing contained in this chapter shall be construed as in any manner repealing or modifying any provision of the municipal code relating to any particular business that is licensed by the village wherein motor vehicles or other vehicles are being used upon the public ways of the village. This chapter shall not apply to any person who, or entity that, stores, repairs, services, load or unloads any trailer or semi-trailer owned or leased by said person or entity on real property owned, leased or legally occupied by said person or entity where such trailer or semi-trailer is used in furtherance of any active and viable business conducted by the person or entity on said property.

**33-3-4: TAX IMPOSED:**

Any person, firm, sole proprietorship, partnership, joint venture, corporation, limited liability company, trust or other legal entity residing or operating within the village who stores any trailer, semi-trailer, or truck tractor, or who causes or permits any of his or its agents, employees, lessees, licensees or bailees to store any trailer, semi-trailer, or truck tractor on a semi-truck and trailer storage lot within the village (except where such trailer or semi-trailer is used in furtherance of any active and viable business conducted by the person or entity on said property) shall pay to the village the tax described in this chapter.



### **33-3-5: RATE, VIOLATIONS AND LIEN:**

- A. The tax payable under this chapter shall be \$300.00 per parking space per year beginning on January 1, 2020 through December 31, 2025; thereafter the tax payable under this chapter shall be \$500.00 per parking space per year. The tax shall be due from the operator of the trailer and semi-trailer lot, who shall also be responsible for obtaining any and all applicable license(s) required by this code to operate within the village. This tax is due and payable on or before May 1<sup>st</sup> of each year for the tax due for the preceding calendar year. In the event the tax is not timely paid by the operator of the trailer and semi-trailer storage lot or the licensee listed on the application required under Section 3-33-7 of this chapter, then the owner of the trailer and semi-trailer storage lot, if not already liable therefor as of operator or the licensee, shall be liable therefor.
- B. The tax imposed under Section 33-3-4 applied at the rate set forth in said subsection A. shall be a lien upon the trailer and semi-trailer storage lot.

### **33-3-6: LOT REQUIREMENTS; RESTRICTIONS; REGULATIONS**

- A. Vertical storage of trailers or containers is expressly prohibited.
- B. Trailer and semi-trailer storage lots shall be completely fenced on the border of the property and shall have at least one gate for entering and existing the property. The gate shall be secured and locked at all times, except when vehicles or persons are entering or exiting the property. The trailer and semi-trailer storage lot owner or operator shall keep the property secured at all times and shall either provide an attendant at all operating gates at all times or install and maintain in operational order a secured entry system which keeps a record of all trailers, semi-trailers, truck tractors, or motor vehicles entering the trailer and semi-trailer storage lot. The owner shall establish and maintain emergency access to the lot by arrangement with the Village of Bartlett Police Department and either the Bartlett Fire Protection District or the South Elgin and Countryside Fire Protection District, depending on jurisdiction.
- C. Trailer and semi-trailer storage lots shall post at all entry gates the name and contact information of the owner, authorized leasing agent, or management of the lot. This signage shall be kept current with any change in ownership, leasing agent, or management of the lot.
- D. The required fence surrounding the trailer and semi-trailer storage lot shall be no less than six feet (6') in height and no more than eight feet (8') in height. The fencing shall be made of non-combustible material. No barbed wire or razor wire may be installed on the fence.
- E. All required fencing shall either be solid fencing or if not solid, shall also be screened by landscape materials and subject to the approval of the zoning administrator.

- F. In addition to the requirements of subsections D and E above, rights of way shall also be screened from public view by landscaping to screen the view of the operations on the property. Fencing along rights of way shall be setback to meet the building setback as prescribed by the Village of Bartlett Zoning Ordinance for the zoning district in which the storage lot is located.
- G. Any portion of the fence abutting any property or area zoned for commercial or residential use shall be solid and shall include landscaping along the outside of the fence.
- H. No repair work may be performed on any truck, trailer, semi-trailer, truck tractor, or any vehicle on the property except in an enclosed structure located on the trailer and semi-trailer storage lot. This shall not include emergency tire repairs. Repair work may only be performed on the property if the owner or operator of the business(es) located on the property is properly licensed by the village.
- I. No inoperable motor vehicles shall be stored on any trailer and semi-trailer storage lot. All motor vehicles stored on the lot shall display a valid license plate.
- J. All parking spaces shall be clearly marked and shall measure at least ten feet (10') in width by fifty feet (50') in depth. Spaces shall be numbered, and each user of the property shall be assigned a parking space(s) by number.
- K. All trailer and semi-trailer storage lots shall be made of a constructed surface including paved, asphalt, concrete surfaces, and other hard impermeable surfaces, and shall not include any soft ground, including compressed gravel or road grindings or as otherwise required by applicable building codes or other village ordinances. A six inch (6") barrier curb shall be constructed and maintained around the perimeter of the storage lot and around all interior landscape islands.
- L. Clear and unobstructed access drives shall be provided between all parking rows. Access drives shall measure at least seventy five feet (75') in width.
- M. Landscape islands shall be provided at each twenty (20) continuous spaces. Landscape islands shall be planted and maintained with a mix of ornamental grasses and shrubs.
- N. Tandem parking is strictly prohibited.
- O. All trailer and semi-trailer storage lots shall be illuminated in accordance with the village code for parking lot illumination standards.
- P. All trailer and semi-trailer storage lots shall contain permanent or portable restroom facilities with not less than one (1) toilet for each one hundred (100) parking spaces. Such restroom facilities shall be kept clean and shall be properly maintained, including routine pumping and service of all portable toilet facilities.

- Q. All trailer and semi-trailer storage lots shall contain trash receptacles at a rate of one (1) per each fifty (50) parking spaces. Trash shall be routinely collected and removed from the lot and the site shall remain free of debris and trash at all times.
- R. Every trailer and semi-trailer storage lot shall have established driveways for entrance and exit in conformity with this section and all other applicable requirements of this code. Application shall be made to the village engineer for a permit to secure any necessary curb cuts including but not limited to removing curbing or to cutting down or altering any street curb or where the driveway will depress or elevate the established grade of a public sidewalk or parkways, or both. The driveways shall be built with either asphalt or concrete of the quality and in the manner provided in the subdivision ordinance, in the applicable building codes or other village ordinances. It shall be illegal for any person to drive any motor vehicle into or out of any trailer and semi-trailer storage lot except upon such driveway so established by the operator or owner of the trailer and semi-trailer storage lot or to permit ingress or egress of motor vehicles from any public alley or street from or to such trailer and semi-trailer storage lot.
- S. Every trailer and semi-trailer storage lot shall be provided with a stormwater management system, erosion control, wetland protection, flood plain protection and protection of riparian environments in accordance with the requirements and standards set forth in the DuPage County Countywide Stormwater and Floodplain Ordinance, as amended (the "DuPage County Regulations"), whether or not the underlying property is located in DuPage County, as the DuPage County Regulations have been adopted and made applicable to all developments within the corporate limits of the Village and developments within 1-1/2 miles of its corporate limits as provided in Section 11-8-1 of this code. Each operator and owner of a trailer and semi-trailer storage lot shall comply with all such stormwater ordinances enacted by the village and shall apply to the village engineer for stormwater control approval. Every trailer and semi-trailer storage lot shall be designed and maintained to provide positive drainage. Surface water shall be discharged into an adequate stormwater collection system approved by the village engineer.

### **3-33-7 LICENSE REQUIRED**

- A. No person, firm or entity shall operate a trailer or semi-trailer storage lot without having first obtained a written business license therefor from the village clerk. This license is renewable annually on May 1<sup>st</sup> each year. There shall be no more than three (3) total trailer and semi-trailer storage lot business licenses issued by the village at any given time. The fee for said license shall be as set forth in Section 3-1-1 of this title.
- B. All applicants for said licenses must first file with the village clerk an application in writing for a license on forms supplied by the village for that purpose.

C. Minimally, the application shall request and require the applicant to disclose the following information and provide the following documentation:

1. The capacity of the lot in the number of trailers and semi-trailers;
2. A complete schedule of rates to be charged, if any;
3. The name and address of the applicant;
4. Whether the applicant is a sole proprietorship, partnership, joint venture, corporation, limited liability company, or other legal entity, and the name and address of such individual or entity;
5. The names and addresses of: The individual sole proprietor if a sole proprietorship; all partners if a partnership; all joint venturers if a joint venture; all shareholders, officers, and directors if a corporation; all managers and members if a limited liability company; the trustee and all beneficiaries of any trust; and the principals of any other legal entity;
6. Whether the premises are owned or leased by the applicant, and if leased, for what duration and purpose;
7. The name and address of the lessor and the lessee if leased;
8. The applicant shall submit evidence of ownership (deed or title policy), and if the underlying property is leased to another person or entity, shall submit a copy of a written lease with the village clerk;
9. The application shall be signed and sworn to by the applicant. If a sole proprietorship, by the individual sole proprietor; if a partnership, by its general partner(s); if a joint venture, by its joint venturers and the principals of the underlying entities; if a corporation, by its authorized agent or officer; if a limited liability company, by its manager(s); if a trust, by the trustee thereof; if another legal entity, by its principals.
10. A copy of the ordinance approving the special use for the trailer and semi-trailer storage lot shall be submitted with the completed application.

**3-33-8: LIABILITY INSURANCE:**

Before any license required by this chapter or otherwise by village ordinances shall be issued, or the construction of a trailer or semi-trailer storage lot or any driveway thereto is commenced, the applicant shall file, in duplicate, with the village clerk a commercial general liability insurance policy issued by a solvent insurance company authorized by the state and possessed with a certificate of such authorization issued under state laws in the form acceptable by the underwriter's code of the state department of insurance for such policies. The commercial general liability policy shall be on an "occurrence" basis,



including coverage for products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limits shall apply separately to the trailer and semi-trailer storage lot location or the general aggregate limit shall be not less than \$2,000,000. The policy shall insure the operator and/or the owner of the underlying property, and shall be endorsed to name the Village and its officials, officers, and employees as additional insureds with respect to liability arising out of work, or conditions performed by or on behalf of the licensee, the owner of the underlying property, and/or the operator of a trailer and semi-trailer storage lot. Such policy of insurance shall also contain endorsements thereon that such policy shall not be cancelled for any cause without notice being first served on the village clerk at least thirty (30) days prior to the date of such cancellation. All such policies submitted shall be first approved by the village attorney before being accepted for such filing with the village clerk. All such insurance shall be kept in full force and effect during the life of the business license to operate a trailer and semi-trailer storage lot, and during all renewals thereof.

### **3-33-9: ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION AND/OR FINES:**

- A. Any license for the operation of a trailer and semi-trailer storage lot may be suspended in accordance with the provisions of Section 3-1-15:A. of this code, and may be revoked in accordance with the provisions of Section 3-1-15:B of this code, after a hearing and written notice to the licensee of such hearing of the grounds therefor as provided in this title 3, and for and for any of the following acts, conduct, or omissions:
1. Failure to provide or maintain for the trailer or semi-trailer storage lot an adequate wall, barrier, or gate along public walks or streets adjacent to the storage lot to limit points of ingress and egress.
  2. Failure to keep ground surfaces paved as required by this chapter. Failure to keep and maintain such surfaces of such parking lot and driveways free from the accumulation of dust, dirt, rubbish, debris, and litter.
  3. Failure to provide and maintain a minimum of .5 foot-candles of light over the entire ground area of such parking lot, including the area not allocated for storing trailers and motor vehicles.
  4. Parking or permitting nonworking or disabled or inoperative motor vehicles or abandoned motor vehicles or junked motor vehicles or any other such similar vehicles to be stored or parked upon such storage lot or to remain on such storage lot for more than twenty-four (24) hours.
  5. Parking, storing, or permitting the parking or storage of trailers, semi-trailers, truck tractors, or motor vehicles on the storage lot in excess of the delineated and acknowledged capacity of such storage lot; permitting of or maintaining an arrangement for the parking of trailers and semi-trailers on or removal of trailers and semi-trailers from such trailers and semi-trailer storage lots which



necessitates or results in the backing or driving of cars onto adjacent public sidewalks or other public ways, parkways, or alleys.

6. Making or permitting any material change in the operation, physical construction or layout of such trailers and semi-trailers storage lot inconsistent with the licensee's initial application for the license and such license without first submitting for approval to and without obtaining approval from the zoning administrator of such material changes and/or alterations.
  7. Using or permitting the use of any trailer and semi-trailer storage lot to store or park a trailer or semi-trailer or any other vehicle for the purpose of displaying the vehicle for sale or using or permitting the use of such storage lot as a motor vehicle repair shop or for the conduct of any other business whatsoever by the licensee or by any lessee of the licensee, including the vending of goods, wares or merchandise or services in connection therewith upon such storage lot.
  8. Violating or knowingly permitting the violation of any village ordinance or any felony state penal law regarding theft, larceny, the conversion of any motor vehicle or the operation thereof without the owner's consent, or any other crime or moral turpitude whether or not such licensee or any other person is convicted of such violation.
  9. Failure to adhere to the lot requirements and restrictions set forth in subsection 33-3-6 or any of the other provisions set forth in this chapter.
  10. Failure to procure, maintain and/or keep in full force and effect the liability insurance required under Section 3-33-8 of this chapter.
  11. Failure to timely pay the annual taxes due the village as imposed in section 3-33-4 at the rates established in section 3-33-5 of this chapter.
  12. Failure to apply for renewal and/or to keep in place the business license required under section 3-33-7 of this chapter, and/or to pay the annual license fee thereunder in the amount set forth in section 3-1-1:E of this title.
  13. Making or permitting the making of any false or misleading statements or representations or misrepresentations in the application or plat or drawing accompanying the application.
- B. The acts, conduct, or omissions set forth in Section 3-1-15 of this title and/or paragraphs 1 through 13 of subsection A. of this Section shall not only be additional grounds for the suspension and/or revocation of the trailer or semi-trailer lot business license, but said acts, conduct or omissions shall also be additional grounds, or a violation thereof may also be punishable by fines as provided in Section 3-33-10 of this chapter.

**3-33-10: PENALTY; ENFORCEMENT:**

- A. In addition to the suspension and revocation provisions under Section 3-33-9 of this chapter, any person, firm, partnership, joint venture, corporation, limited liability company, trust or other legal entity convicted of or found by an administrative hearing officer in a local administrative adjudication proceeding to have violated any provisions of this chapter, shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. Whenever a person, firm, partnership, joint venture, corporation, limited liability company and/or other legal entity violates any of the provisions of this chapter, the village may cause appropriate legal actions and proceedings, in law or in equity, to be installed and maintained to enforce compliance herewith.

**SECTION TWO:** That Section 3-1-1-E of the Bartlett Municipal Code is hereby amended to add the following in alphabetical order to the license fee schedule:

<u>Business, Trade Or Occupation</u>	<u>II License Fee</u>	<u>III Special Regulations In This Title</u>
Trailer and semi-trailer storage lot	\$500.00 per year	Chapter 33

**SECTION THREE: SEVERABILITY.** The various provisions of this Ordinance are to be considered as severable, and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

**SECTION FOUR: REPEAL OF PRIOR ORDINANCES.** All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**SECTION FIVE: EFFECTIVE DATE.** This Ordinance shall be in full force and effect upon its passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED:

APPROVED:

\_\_\_\_\_  
Kevin Wallace, Village President

ATTEST:

\_\_\_\_\_  
Lorna Giles, Village Clerk

#### CERTIFICATION

I, Lorna Giles, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2020-\_\_\_\_\_ enacted on \_\_\_\_, 2020 and approved on \_\_\_\_, 2020 as the same appears from the official records of the Village of Bartlett.

\_\_\_\_\_  
Lorna Giles, Village Clerk



ORDINANCE 2020 - \_\_\_\_\_

AN ORDINANCE AMENDING THE BARTLETT MUNICIPAL CODE  
TITLE 10 ZONING  
BY REVISION TO CERTAIN SECTIONS TO ADD REGULATIONS FOR THE  
ESTABLISHMENT OF TRAILER AND SEMI-TRAILER STORAGE LOTS

---

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

**SECTION ONE:** That Section 10-2-2 of the Bartlett Municipal Code is hereby amended as follows:

Add the following definitions in alphabetical order:

**TRAILER AND SEMI-TRAILER STORAGE LOT:** Any real property where trailers, semi-trailers, and/or truck tractors are stored, repaired, services, loaded, unloaded or otherwise parked. All trailer and semi-trailer lots shall be made of a constructed surface, including paved, asphalt, concrete surfaces, and other hard impermeable surfaces, and shall not include any soft ground, including compressed gravel or road grindings. Parking lots shall be required to be appropriately lines or striped for parking spaces consistent with its use and the Village Code, including all zoning and parking regulations.

**TRUCK TRACTOR:** Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn, or a power unit that carries as property motor vehicles when operating in combination with a semi-trailer in transporting motor vehicles or any other commodity, including cargo or general freight, on a backhaul.

**SECTION TWO:** That Subsection 10-6A-6 *Prohibited Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots.

**SECTION THREE:** That Subsection 10-6B-6 *Prohibited Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots.

**SECTION FOUR:** That Subsection 10-6C-6 *Prohibited Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots.

**SECTION FIVE:** That Subsection 10-6D-6 *Prohibited Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots.

**SECTION SIX:** That Subsection 10-7A-4 *Special Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots provided they comply with all requirements of Title 3 Chapter 33 of this Code.

**SECTION SEVEN:** That Subsection 10-7C-4 *Special Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots provided they comply with all requirements of Title 3 Chapter 33 of this Code.

**SECTION EIGHT:** That Subsection 10-8A-6 *Prohibited Uses* shall be amended to add the following in alphabetical order:

Trailer and semi-trailer storage lots.

**SECTION NINE: SEVERABILITY.** The various provisions of this Ordinance are to be considered as severable, and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

**SECTION TEN: REPEAL OF PRIOR ORDINANCES.** All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**SECTION ELEVEN: EFFECTIVE DATE.** This Ordinance shall be in full force and effect upon its passage and approval.

**ROLL CALL VOTE:**

**AYES:**

**NAYS:**

**ABSENT:**

**PASSED:**

**APPROVED:**

\_\_\_\_\_  
Kevin Wallace, Village President

**ATTEST:**

\_\_\_\_\_  
Lorna Giles, Village Clerk

### CERTIFICATION

I, Lorna Giles, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2020-\_\_\_\_\_ enacted on , 2020 and approved on , 2020 as the same appears from the official records of the Village of Bartlett.

\_\_\_\_\_  
Lorna Giles, Village Clerk



# Agenda Item Executive Summary

Item Name Request to Amend Cannabis-Related Ordinances Committee or Board Committee of the Whole

## BUDGET IMPACT

Amount:	N/A	Budgeted	N/A
List what fund	N/A		

## EXECUTIVE SUMMARY

The Police Department is requesting the Village Board to amend several cannabis-related ordinances in response to the Cannabis Regulation and Tax Act that was signed into law by Governor JB Pritzker on Tuesday, June 25, 2019. The General Assembly also recently passed legislation to clarify and strengthen the Cannabis Regulation and Tax Act. The new law goes into effect on Wednesday, January 1, 2020, which allows adults 21 and older to legally possess, consume and purchase cannabis paraphernalia and certain amounts of cannabis.

The Police Department is also recommending the Village Board to update the penalties that are listed in Title 5, Chapter 3 to reflect the \$750.00 fine or penalties that the Administrative Hearing Officer can impose in Title 1, Chapter 15, entitled "ADMINISTRATIVE ADJUDICATION OF NONVEHICULAR ORDINANCE VIOLATIONS".

## ATTACHMENTS (PLEASE LIST)

- Police Department Memorandum
- Draft of an Ordinance Amending Title 5, Chapter 3, Section 5-3-2, entitled "Disorderly Conduct, Unlawful Conduct and Unlawful Loitering"
- Draft of an Ordinance Amending Title 5, Chapter 10, entitled "Chronic Nuisance Property"
- Draft of an Ordinance Amending Title 6, Chapter 19-100, entitled "Seizure and Impoundment of Motor Vehicles Used in the Commission of Certain Offenses"
- Draft of an Ordinance Amending Title 5, Chapter 8, entitled "Cannabis and Drug Paraphernalia"

## ACTION REQUESTED

- For Discussion Only
- Resolution
- Ordinance
- Motion

Staff: Geoffrey T. Pretkelis, Deputy Chief of Police Date: November 22, 2019



**POLICE DEPARTMENT MEMORANDUM  
19-73**

**DATE:** November 22, 2019  
**TO:** Paula Schumacher, Village Administrator  
**FROM:** Geoffrey T. Pretkelis, Deputy Chief of Police  
**RE:** Request to Amend Cannabis-Related Ordinances

The Police Department is requesting the Village Board to amend several cannabis-related ordinances in response to the Cannabis Regulation and Tax Act that was signed into law by Governor JB Pritzker on Tuesday, June 25, 2019. The General Assembly also recently passed legislation to clarify and strengthen the Cannabis Regulation and Tax Act. The new law goes into effect on Wednesday, January 1, 2020, which allows adults 21 and older to legally possess, consume and purchase cannabis paraphernalia and certain amounts of cannabis.

The Police Department is also recommending the Village Board to update the penalties that are listed in Title 5, Chapter 3 to reflect the \$750.00 fine or penalties that the Administrative Hearing Officer can impose in Title 1, Chapter 15, entitled "ADMINISTRATIVE ADJUDICATION OF NONVEHICULAR ORDINANCE VIOLATIONS".

**Disorderly Conduct, Unlawful Conduct and Unlawful Loitering**

The Police Department is requesting the Village Board to consider the following:

- Amending Title 5, Chapter 3, Section 5-3-2: DISORDERLY CONDUCT, UNLAWFUL CONDUCT AND UNLAWFUL LOITERING" of the Bartlett Municipal Code by eliminating Subsection F - Loitering for the Purpose of Engaging in Drug-Related Activity Unlawful. This subsection was enacted on April 19, 1994 and appears to be outdated and poses some constitutional concerns.
- Eliminating the penalties from Subsection A - Impersonation and Subsection B - Interference with Village Officer in Section 5-3-1: OFFENSES AGAINST PUBLIC OFFICERS; Subsection G in Section 5-3-2: DISORDERLY CONDUCT, UNLAWFUL CONDUCT AND UNLAWFUL LOITERING; Subsection A - Injury to Public Property and Subsection D-3: Trespassing Prohibited in Section 5-3-3: OFFENSES AGAINST PROPERTY; and Section 5-3-5: BAD CHECKS, ISSUE.

The Police Department is requesting to relocate those penalties to Section 5-3-6: PENALTY and then amend it to eliminate a minimum fine amount and increase the maximum fine amount not to exceed \$750.00 for each offense.

**Chronic Nuisance Property**

The Police Department is requesting the Village Board to consider amending Subsection S of the "NUISANCE ACTIVITIES" definition listed in Section 5-10-1 of Title 5, Chapter 10, entitled

“CHRONIC NUISANCE PROPERTY” of the Bartlett Municipal Code. It currently references any offense defined and prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 550/1 et seq. We are requesting Subsection S to be amended to only include any Class A Misdemeanor or felony cannabis possession offense prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 550/4 (c), (d), (e), (f), or (g), or any Class A Misdemeanor or felony manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis offense prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 550/5 (b), (c), (d), (e), (f), or (g), or any unlawful use of cannabis-based product manufacturing equipment offense prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 550/5.3 et seq.

### **Seizure and Impoundment of Motor Vehicles Used in the Commission of Certain Offenses**

The Police Department is requesting the Village Board to consider amending Subsection 6-19-102:G of Title 6, Chapter 19-100, entitled “SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES USED IN THE COMMISSION OF CERTAIN OFFENSES” of the Bartlett Municipal Code. The current subsection allows the Police Department to seize and impound a vehicle used in the commission of a felony possession of cannabis in excess of 30 grams offense. Since any person who is 21 years of age or older and a resident of the State of Illinois will be able to legally possess 30 grams of cannabis flower beginning on Wednesday, January 1, 2020, we are recommending the subsection to be amended to still only include felony cannabis possession offenses prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 550/4 (d), (e), (f), or (g) since any person who is 21 years of age or older and a resident of the State of Illinois will be able to legally possess 30 grams of cannabis flower beginning on Wednesday, January 1, 2020.

The Police Department is also requesting the Village Board to consider amending Subsection 6-19-102 of Title 6, Chapter 19-100, entitled “SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES USED IN THE COMMISSION OF CERTAIN OFFENSES” of the Bartlett Municipal Code to allow the Police Department to seize and impound a vehicle while operating or using or using it to manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis or a controlled substance prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 55-1/5 (c), (d), (e), (f), or (g) or the Illinois Controlled Substances Act, 720 Illinois Compiled Statutes 570/401. This would also be allowable under 625 Illinois Compiled Statutes 5/11-208.7(b) (7) “operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act”.

### **Cannabis and Drug Paraphernalia**

The Police Department is requesting the Village Board to amend Title 5, Chapter 8, entitled “CANNABIS AND DRUG PARAPHERNALIA” of the Bartlett Municipal Code. The proposed amended ordinance would include some of the key terms, prohibited acts, and definitions that are found in the Cannabis Regulation and Tax Act and Trailer Bill that was recently passed by the General Assembly. Some of the highlights include:

- Prohibiting any person under 21 years of age to knowingly possess cannabis, purchase, attempt to purchase, or otherwise obtain cannabis from a cannabis business establishment unless it is authorized by the Compassionate Use of Medical Cannabis Program Act or by the Community College Cannabis Vocational Pilot Program,

- Establishing legal possession amounts of cannabis for residents of the State of Illinois and non-residents who are 21 years of age or older,
- Creating a parental responsibility provision for any parent or guardian to knowingly permit his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of 21, in a manner that constitutes a violation of the Cannabis Regulation and Tax Act or this chapter,
- Prohibiting the possession and the use of cannabis by individuals 21 years of age or older in certain places,
- Placing restrictions on home cannabis cultivation,
- Prohibiting the possession, sale or delivery of cannabis paraphernalia by persons under 21 years of age

## Chapter 3

### MISDEMEANORS

#### 5-3-1: OFFENSES AGAINST PUBLIC OFFICERS:

#### 5-3-2: DISORDERLY CONDUCT, UNLAWFUL CONDUCT AND UNLAWFUL LOITERING:

#### 5-3-3: OFFENSES AGAINST PROPERTY:

#### 5-3-4: INJURIOUS ACTS, CONDITIONS:

#### 5-3-5: BAD CHECKS, ISSUE:

#### 5-3-6: PENALTY:

#### 5-3-1: OFFENSES AGAINST PUBLIC OFFICERS:

A. Impersonation: It shall be unlawful for any person to impersonate without lawful authority any Village officer or employee. ~~Any person violating this subsection shall be fined not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) for each offense.~~ (1968 Code, §7.112)

#### B. Interference with Village Officer:

1. It shall be unlawful to physically interfere with or hinder any officer or employee of the Village while they are engaged in the duties of their office or employment. It shall not be unlawful to interfere with or hinder an officer or employee of the Village by means of demonstration, protests or other forms of speech, even abusive or vulgar speech, unless such speech by its very utterance tends to incite an immediate breach of the peace.

2. ~~It shall be unlawful for~~ any person who shall resist physically any member of the Police Department or any other person duly authorized to perform police duty, in the discharge of their duties, or shall in any way interfere with physically or physically prevent or hinder them in the discharge of their duties as such member, or shall offer or endeavor physically to do so, and any person who shall in any manner assist physically any person in the custody of any member of the Police Department to escape or attempt to escape from such custody. ~~shall be punished by a fine not to exceed five hundred dollars (\$500.00)~~<sup>1</sup>. Nothing herein contained shall be construed as prohibiting demonstrations or other forms of speech, unless such speech by its very utterance tends to incite an immediate breach of peace. (1968 Code, §23.006; amd. 1984 Code)

#### 5-3-2: DISORDERLY CONDUCT, UNLAWFUL CONDUCT AND UNLAWFUL LOITERING:

A. Disorderly Conduct<sup>2</sup>: No person shall engage in disorderly conduct. Any person who shall do any of the following shall be guilty of disorderly conduct:

1. Any person who shall act in a violent or tumultuous manner toward another, where any person is placed in fear of safety of his life, limb or health;



2. Any person who shall act in a violent or tumultuous manner toward another, where property of any person is placed in danger of being destroyed or damaged;
3. Any person who shall endanger lawful pursuits of another by acts of violence, angry threats and abusive conduct;
4. Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
5. Any person who shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl;
6. Any person who shall be found jostling or roughly crowding or pushing any person in any public place;
7. Any person who shall collect in bodies or in crowds for unlawful purposes;
8. Any person who shall assemble or congregate with another or others, for the purpose of or with the intent to engage in gaming;
9. Any person who shall frequent any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device;
10. Any person who assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the town, or who shall aid or abet such person;
11. Any person who utters, while in a state of anger, in the presence of another, any lewd or obscene words or epithets;
12. Any person who frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is allowed or tolerated;
13. Any person who shall act in a dangerous manner toward others;
14. Any person who in the presence or hearing of another, curses or abuses such other person, or uses any violent or abusive language to such person concerning such other person, any of such person's relations, ethnic group, race or otherwise uses such language under circumstances reasonably calculated to provoke a breach of the peace ("fighting words");
15. Any person who shall assemble or congregate with another or other persons for the purpose of doing bodily harm to another;
16. Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation;

17. Any person who shall congregate with another or others in or on any public ways so as to halt the flow of vehicular or pedestrian traffic and refuses to clear any public way when ordered to do so;

18. Any person who interferes with any public gathering or religious worship within the town.

Nothing herein contained shall be construed as prohibiting picketing, demonstrations or other forms of speech, unless said speech amounts to "fighting words" which by its very utterance tends to incite a breach of the peace.

B. Fighting<sup>3</sup>: It shall be unlawful for any person to commit an assault or battery in any place in the Village. A person commits an assault when without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery. A person commits a battery if he intentionally or knowingly, without legal justification and by any means: 1) causes bodily harm to an individual; or 2) makes physical contact in an insulting or provoking nature with an individual.

C. False Alarms<sup>4</sup>: It shall be unlawful for any person to knowingly start or spread any false alarm of fire in the Village, or to transmit in any manner to the Fire Department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists.

D. Loitering on Public Property or in Public Places: Any person or persons who at any time stands, strolls or walks on any public street, sidewalk or in and at any public place in such a manner to impede, hinder or interfere with the normal flow of pedestrian or vehicular traffic on such public sidewalk street or property, and who refuses to disburse and move from the area from which such person or persons is impeding or interfering with pedestrian or vehicular traffic when directed to do so by any member of the Police Department, shall be guilty of the misdemeanor of loitering.

E. Loitering on Business Property:

1. Definitions: As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

LOITERING: Remaining idle in one location, including walking around aimlessly, and sitting or standing in or out of a motor vehicle.

2. Loitering Prohibited: No person shall loiter on private property that is customarily used by the public as an integral part of a commercial venture in such a manner as to:

a. "Disturb the peace" as defined by State law, to wit; to do any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

b. Obstruct the free passage of pedestrians or vehicles;

c. Obstruct or interfere with any person lawfully seeking access or the use of the commercial enterprise conducted on the property or adjacent or continuous to said private property.

Nothing herein contained shall be construed as prohibiting picketing, demonstrating or other forms of speech unless such speech amounts to "fighting words" as defined in Section 3-3-2A14 which by its very utterance tends to incite an immediate breach of the peace.

3. Notice: No person shall be guilty of a violation of this Section unless:

a. The property owner or tenant shall post the property with "No Loitering" signs or other notices of like meaning at the entrance or entrances to the property and at intervals of not less than seventy five feet (75') on such property. Property of seventy five feet (75') or less may contain only one sign; and

b. The person to be charged with loitering has been asked by the owner or tenant of the property, by an employee of the owner or tenant, by a security officer or by a law enforcement officer to leave the property and has failed to leave.

#### **F. Loitering for the Purpose of Engaging in Drug-Related Activity Unlawful:**

~~1. It is unlawful for any person to loiter in or near any thoroughfare, or place open to the public, for the purpose of engaging in activity contrary to any of the provisions of the Illinois Controlled Substances Act, 720 Illinois Compiled Statutes 570/100 et seq. (formerly Illinois Revised Statutes, chapter 56<sup>1/2</sup>, paragraph 1100 et seq.), as amended, the Illinois Cannabis Control Act, 720 Illinois Compiled Statutes 550/1 et seq. (formerly Illinois Revised Statutes, chapter 56<sup>1/2</sup>, paragraph 701 et seq.), as amended, or any other local, State or Federal law prohibiting the manufacture, distribution, delivery, use or possession of a controlled substance (hereinafter "drug laws").~~

~~2. Among the circumstances which may be considered in determining whether such purpose is "manifested" are the following:~~

~~a. Such person is a known unlawful drug user, possessor, or seller. For purposes of this Section, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this State of any violation involving the use, possession, or sale of any of the substances referred to in the drug laws within the previous year, or such person has been convicted of any of the provisions of said drug laws or substantially similar laws of any political subdivision of this State or of any other state or jurisdiction within the previous year; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks", or a person who possesses "drug paraphernalia" as defined in the Illinois Drug Paraphernalia Control Act, 720 Illinois Compiled Statutes, 600/1 et seq. (formerly Illinois Revised Statutes, chapter 56<sup>1/2</sup>, paragraph 2101 et seq.) as amended;~~

~~b. Such person is currently subject to an order of court prohibiting his or her presence in a high drug activity geographic area and such person is located in such an area;~~



~~e. Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including, but not limited to, such person acting as a "lookout";~~

~~d. Such person is a known member of a "gang" or association which has as its purpose illegal drug activity; for purposes of this Section, a "known" member of a "gang" is a person who has, within the knowledge of the arresting officer, been convicted in any court within the United States, within the previous year, of any violation involving illegal gang activity;~~

~~e. Such person transfers small objects or packages for currency in a furtive fashion;~~

~~f. Such person takes flight upon the appearance of a police officer;~~

~~g. Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;~~

~~h. The area involved is known to be an area of unlawful drug use and trafficking. For purposes of this Section, an area "known to be an area of unlawful drug use" is a specifically defined geographic area, designated by the Chief of Police to be a known area of unlawful drug use; said designation being based on empirical data.~~

~~3. No determination of intent shall be made absent an affirmative act by the person to be charged, which act or acts, when taken in context of the totality of the surrounding circumstances, shall constitute a substantial step towards the violation of the aforementioned drug laws.~~

~~G. Penalty: Any person violating any provision of subsections 5-3-2A, B, C, D, and/or E and/or F shall be severally fined not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed one each day during or on which a violation occurs or continues. (Ord. 94-35, 4-19-94)~~

### 5-3-3: OFFENSES AGAINST PROPERTY:

A. Injury to Public Property: It shall be unlawful for anyone to injure, deface or interfere with any property belonging to the Village without proper authority from the Village Board. ~~Any person violating the provisions of this subsection shall be fined not less than two dollars (\$2.00) nor more than five hundred dollars (\$500.00) for each offense. (1968 Code, §7.604)~~

B. Wind-Blown Refuse: It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds or dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind blown or scattered. (1968 Code, §23.018)



C. Deposit of Grass and Rubbish Prohibited in Public Streets: It shall be unlawful for any person to dump or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the Village. (1968 Code, §23.027)

D. Trespassing Prohibited:

1. Trespass Prohibited: It shall be unlawful for any person to commit a trespass within the Village upon either public or private property.

2. Definition: The term "trespass", as used herein, shall mean and includes the following acts:

a. An entry upon the premises of another, including the premises of a unit of local government ("government") or any part thereof, in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry to such premises; or any such entry in violation of any notice, warning or protest given orally or in writing by the owner of such premises, the owner's agent, or any person having the right to the possession or control of such premises, or the agent of the government which owns or controls such premises; or,

b. The pursuit of a course of conduct or action incidental to the making of an entry upon the land of another, including government land, in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry to such premises, or in violation of any notice, warning or protest given orally or in writing by the owner of such land, the owner's agent, or any person having the right to the possession or control of such land, or the agent of the government which owns or controls such land; or,

c. The failure or refusal to depart from the premises of another, including government premises, after being requested to leave, either orally or in writing, by any owner, the owner's agent or any person having the right to the possession or control of such premises, or the agent of the government which owns or controls such premises; or,

d. The entry into or upon any vehicle, aircraft or watercraft made without the consent of the owner thereof, or the person having the right to the possession or control of such vehicle, aircraft or watercraft, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

e. The entry upon the property of the Village with the intent to injure, damage, deface or interfere with the use of such property, without proper authority from the Village Administrator or her designated representative.

~~3. Penalty: Any person violating any of the provisions of this subsection shall, upon conviction thereof, be fined in an amount not exceeding five hundred dollars (\$500.00). (Ord. 88-115, 12-6-88)~~

#### 5-3-4: INJURIOUS ACTS, CONDITIONS:

A. Missiles: It shall be unlawful to cast, throw or propel any missile on any street, alley or other public place; and it shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley, sidewalk or other public place in the village. (1968 Code § 23.019)

B. Scaffolds: Any scaffold or ladder placed in such a way that it overhangs or can fall onto any public street, alley or other public place in the village shall be firmly constructed and safeguarded; and it shall be unlawful to place or leave any tools or articles on any such place in such a manner that the same can fall onto any such street, sidewalk, alley or other public place from a height greater than four feet (4'). (1968 Code § 23.029)

C. Articles On Windows: It shall be unlawful to place any movable article on any window ledge or other place abutting on a public street, alley or other place a height above four feet (4') from the ground in such a manner that the same can be or is in danger of falling onto any such street, sidewalk, alley or other public place. (1968 Code § 23.030)

D. Whistles: It shall be unlawful to blow or cause to be blown any steam whistle of any stationary engine or steam engine in the village except as a signal for starting or stopping work or in emergencies to avoid injury to persons or property. (1968 Code § 23.031)

E. Hunting: It shall be unlawful for any person, other than a police officer in the lawful exercise of his duties, to hunt for, trap, shoot or shoot at, with any weapon of any kind, kill, or attempt to kill, injure, or attempt to injure, any wild birds or wild animals at any location or place within the corporate limits of the village. (Ord. 84-91, 12-4-1984)

#### 5-3-5: BAD CHECKS, ISSUE:

No person shall issue a check in payment of village services knowing that it will not be paid by the depository or under such circumstances that such person ought to have known that it would not be paid by the depository. Failure to have sufficient funds or credit with the depository when the check or other order is issued or delivered is prima facie evidence that the offender knew that such check would not be paid by the depository. ~~Any person or entity violating any provision of this section shall be fined ten dollars (\$10.00).~~ (Ord. 85-69, 7-16-1985)

#### 5-3-6: PENALTY:

Any person violating any provision of this chapter shall be fined ~~not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00)~~ in an amount not to exceed seven hundred and fifty dollars (\$750.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (1968 Code § 23.035)

Footnotes - Click any footnote link to go back to its reference.

[Footnote 1](#): See also Municipal Code subsection [5-1-10C3](#).

[Footnote 2](#): S.H.A. 720 ILCS 5/26-1(a)(1).

Footnote 3: S.H.A. 720 ILCS 5/12-1, 5-12-3(a).

Footnote 4: S.H.A. 720 ILCS 5/26-1(a)(2).



## Chapter 10

### CHRONIC NUISANCE PROPERTY

[5-10-1: DEFINITIONS:](#)

[5-10-2: CHRONIC NUISANCE PROHIBITED:](#)

[5-10-3: PROCEDURES:](#)

[5-10-4: ABATEMENT WHERE NO SPECIFIC PROVISION EXISTS:](#)

[5-10-5: ENFORCEMENT; ABATEMENT REMEDY; PENALTY:](#)

5-10-1: DEFINITIONS:  

For purposes of this chapter, the following words and phrases shall have the following meanings ascribed to them:

**CHRONIC NUISANCE PROPERTY:** Any property or dwelling unit within the corporate limits of the Village of Bartlett at, in or upon which any three (3) or more nuisance activities have occurred within any twelve (12) month period as a result of three (3) separate factual events that have been independently investigated by authorized sworn personnel of the Village of Bartlett.

**CONTACT:** Any communication made by a tenant, occupant, landlord, owner, guest, neighbor or other individual to police or other emergency services.

**CONTROL:** The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

**CRIMINAL ACTIVITY:** A violation of the Criminal Code of 2012<sup>1</sup>, the Cannabis Control Act<sup>2</sup>, the Illinois Controlled Substances Act<sup>3</sup>, or the Methamphetamine Control and Community Protection Act<sup>4</sup>.

**DISABILITY:** With respect to a person: a) a physical or mental impairment which substantially limits one or more of such person's major life activities; b) a record of having such impairment; or c) being regarded as having such an impairment; but such term does not include current, illegal use of or addiction to a controlled substance as defined in the Federal Controlled Substance Act, 21 USC 802.

**DOMESTIC VIOLENCE:** The meaning provided under section 10 of the Safe Homes Act, 765 Illinois Compiled Statutes 750/10.

**DWELLING UNIT:** The meaning provided under section 15 of the Landlord and Tenant Act, 765 Illinois Compiled Statutes 705/15.

**LANDLORD:** The meaning provided under section 10 of the Safe Homes Act, 765 Illinois Compiled Statutes 750/10, and shall be included in the definition of the term owner.

**NUISANCE ACTIVITIES:** Any criminal activity, including any of the following activities,



behaviors, or conduct, as defined by Federal or State and/or Municipal ordinance where a citation is given, an arrest is made, or a violation has been documented:

A. Any offense defined and prohibited by article 9 (homicide) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/9-1 et seq.;

B. Any offense defined and prohibited by article 10 (kidnapping and related offenses) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/10-1 et seq.;

C. Reserved.

D. Any offense defined and prohibited by article 12 (bodily harm) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/12-0.1 et seq.;

E. Any offense defined and prohibited by article 16 (theft and related offenses) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/16-0.1, et seq.;

F. Any offenses defined and prohibited by article 17 (deception and fraud) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/17-1 et seq.;

G. Any offense defined and prohibited by article 18 (robbery) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/18-1 et seq.;

H. Any offense defined and prohibited by article 19 (burglary) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/19-1 et seq.;

I. Any offense defined and prohibited by article 20 (arson) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/20-1, et seq.;

J. Any offense defined and prohibited by article 21 (damage and trespass to property) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/21-1 et seq.;

K. Any offense defined and prohibited by article 24 (deadly weapons) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/24-1 et seq.;

L. Any offense defined and prohibited by article 25 (mob action and related offenses) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/25-1 et seq.;

M. Any offense defined and prohibited by article 26 (disorderly conduct) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/26-1 et seq.;

N. Any offense defined and prohibited by article 28 (gambling and related offenses) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/28-1 et seq.;

O. Any offense defined and prohibited by article 29 (bribery in contests) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/29-1, et seq.;

P. Any offense defined and prohibited by article 30 (treason and related offenses) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/30-1 et seq.;

Q. Any offense defined and prohibited by article 31 (interference with public officers) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/31-1 et seq.;

R. Any inchoate offense defined and prohibited by article 8 (inchoate offenses) of the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/8-1 et seq., which is relative to the commission of any of the aforesaid principal offenses;

S. Any offense defined and prohibited by the Cannabis Control Act, 720 Illinois Compiled Statutes 550/4 (c) (d) (e) (f) or (g), 720 Illinois Compiled Statutes 550/5 (b) (c) (d) (e) (f) or (g), or 720 Illinois Compiled Statutes 550/5.3 unless authorized by the Compassionate Use of Medical Cannabis Program Act or by the Community College Cannabis Vocational Pilot Program. ~~1-et seq.~~;

T. Any offense defined and prohibited by the Illinois Controlled Substances Act, 720 Illinois Compiled Statutes 570/100 et seq.; or any offense defined and prohibited by the Methamphetamine Control and Community Protection Act, 720 Illinois Compiled Statutes 646/1 et seq.;

U. Any offense defined and prohibited by section 6-16 (prohibited sales and possession) or section 6-20 (purchase or acceptance of gift of liquor by persons under age 21) of the Liquor Control Act of 1934, 235 Illinois Compiled Statutes 5/6-16 and 5/6-20;

V. Any violation of, action brought under, or the engagement in street gang related criminal activity, enterprise, pursuit or undertaking, or course or pattern of criminal activity defined and actionable under the Illinois Streetgang Terrorism Omnibus Prevention Act, 740 Illinois Compiled Statutes 147/1 et seq.;

W. Any unlawful contact with a street gang member or gang member as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act, 740 Illinois Compiled Statutes 147/1 et seq., and otherwise prohibited under the Criminal Code of 2012, 720 Illinois Compiled Statutes 5/1-1 et seq.;

X. Notwithstanding the foregoing provisions set forth in this definition of nuisance activities (including subsections A through W inclusive of this definition), pursuant to section 1-2-1.5 of the Illinois Municipal Code, 65 Illinois Compiled Statutes 5/1-2-1.5, the following activities, behavior or conduct are hereby excluded from this definition of nuisance activities:

1. Contact made to police or other emergency services, if:

a. The contact was made with the intent to prevent or respond to domestic violence or sexual violence;

b. The intervention of emergency assistance was needed to respond to or prevent domestic violence or sexual violence;

c. The contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;

2. An incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the property within the Village of Bartlett; or

3. Criminal activity or a local ordinance violation occurring in a dwelling unit or on the property that is directly relating to domestic violence or sexual violence engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest or other party.

Y. Notwithstanding the exclusions set forth in subsections X1, X2 and/or X3 of this definition, nothing set forth therein limits the enforcement of: 1) section 15.2 of the Emergency Telephone System Act, 50 Illinois Compiled Statutes, 750/15.2; 2) article 26 of the Criminal Code of 2012, 720 Illinois Compiled Statutes, 5/26-1, et seq.; or 3) article X of the Code of Civil Procedure, 735 Illinois Compiled Statutes 5/10-101 et seq.; or 4) prohibits the Village from enacting or enforcing ordinances to impose penalties on the basis of the underlying criminal activity or local ordinance violation not covered by subsections X1, X2, and/or X3 of this definition to the extent otherwise permitted by State and Federal laws; or 5) limits or prohibits the eviction of or imposition of penalties on the perpetrator of the domestic violence, or other criminal activity.

**OCCUPANT:** Any person in actual or constructive possession of any real property within the corporate limits of the Village of Bartlett, or any of the buildings, structures, fixtures or improvements located thereon, and shall include any "tenant" as that term is defined in section 10 of the Safe Homes Act, 765 Illinois Compiled Statutes 750/10.

**OWNER:** Any person having any legal or equitable interest whatsoever in any real property within the corporate limits of the Village of Bartlett, together with the buildings, structures, fixtures or improvements located thereon, or who, by any means whatsoever, has the ability, authority or right to regulate, restrain, control, direct or affect the conduct of persons present on any such property and shall include, but shall not be limited to, a mortgagee in possession who is vested all or part of the legal title to the property, and/or all or a part of the beneficial ownership and rights to the present use and enjoyment of the property, and/or any person acting as an agent for any person having any such legal or equitable interest, and shall include any "landlord" as that term is defined in section 10 of the Safe Homes Act, 765 Illinois Compiled Statutes 750/10.

**PERMIT:** To allow, approve, consent to, acquiesce in, agree to, suffer or fail to prevent through inaction.

**PERSON:** Any natural individual, corporation, firm, partnership, joint venture, limited liability company, land trust, unincorporated association or any other group, enterprise or entity capable of owning, using or occupying property.



**PERSON IN CHARGE:** Any person in actual or constructive possession of the property, including, but not limited to, an owner, property manager or occupant of property under his, her, their or its control.

**PROPERTY:** Any real property, together with any premises, house, rooms, buildings, structures, improvements or fixtures located thereon or affixed thereto, or any separate part or portion thereof whether permitted or not.

**SEXUAL VIOLENCE:** The meaning provided under section 10 of the Safe Homes Act, 765 Illinois Compiled Statutes 750/10.

**SUBSIDIZED HOUSING:** The meaning provided under section 9-119 of the Code of Civil Procedure, 735 Illinois Compiled Statutes 5/9-119.

**TENANT:** The meaning provided under section 10 of the Safe Homes Act, 765 Illinois Compiled Statutes 750/10. (Ord. 2017-114, 9-5-2017)

**5-10-2: CHRONIC NUISANCE PROHIBITED:**  

A. It shall be unlawful for any property in the Village to become or remain a chronic nuisance property in violation of this chapter.

B. It shall be unlawful for any person or persons in charge to: 1) aid, abet or permit a property to become a chronic nuisance property; and 2) allow a property to continue as a chronic nuisance property after receipt of notice to abate the nuisance activity.

C. No person shall intentionally, knowingly, recklessly or negligently permit any property, within the corporate limits of the Village of Bartlett, to become, exist as or be used as a chronic nuisance property, and any chronic nuisance found to exist within the Village of Bartlett shall be subject to abatement in accordance with the applicable provisions of this chapter. (Ord. 2017-114, 9-5-2017)

**5-10-3: PROCEDURES:**  

A. Preabatement Procedure: Whenever the Chief of Police of the Village of Bartlett Police Department shall receive two (2) or more police reports generated in the ordinary course of the business of the department, or any reports from sworn personnel of any other law enforcement agency lawfully exercising jurisdiction in the Village of Bartlett, which reports describe the commission of any acts or conduct occurring on at least two (2) separate occasions within the



same twelve (12) months at, in or on the same property which could constitute any two (2) or more of the offenses set forth in the definition of nuisance activity, the Chief of Police shall independently review said reports defined in this chapter as "nuisance activities" and determine whether such acts or conduct in fact constitute any of said offenses. In the event that the Chief of Police determines that said reports in fact describe the commission of acts or conduct which constitute any two (2) or more of said offenses that constitute nuisance activity, the Chief of Police may take the following action:

1. Notify by certified mail, return receipt requested, and by regular mail, or by personal service, the last taxpayer of record at such address shown on the tax rolls of the County in which the property is located and the occupants, at the address of the property if those persons are different from the person in charge, and to the property manager or its designee in the case of multi-family residential property, and to any other known person in charge of the property in question, at such other place likely to give the owner, person(s) in charge or tenant(s) in possession notice that said property may be in danger of becoming a chronic nuisance property under the provisions of section [5-10-2](#) of this chapter, which notice shall identify the property in question by either street address or legal description, and the permanent index number (PIN), describe the acts or conduct which have occurred on the property that could serve as part of the basis for determining that the property may become a chronic nuisance property, and demand that the owners and occupants, and the property manager or its designee in the case of multi-family residential property, and other person in charge, if any, contact the Chief of Police within fourteen (14) days of the date of the letter to discuss potential courses of action which will prevent and deter the property in question from becoming a chronic nuisance property.

2. After complying with the notification procedure set forth in subsection A1 of this section, if the Chief of Police of the Village of Bartlett Police Department receives an additional police report describing the commission of subsequent acts or conduct that constitute nuisance activity within the same twelve (12) month period as the acts or conduct with respect to which a notification was issued in accordance with subsection A1 of this section, which acts or conduct were committed at the same property described in said notice and which could constitute the commission of one or more of the offenses set forth in the definition of chronic nuisance activity, then the Chief of Police shall review such report and determine whether or not such acts or conduct in fact constitute one or more of the said offenses, and, in the event that the Chief of Police determines that such acts or conduct do constitute one or more of the said offenses, then the Chief of Police shall, by certified mail, return receipt requested, and by regular mail, or by personal service, and, in addition to either of the foregoing, by posting on the property itself, provide notice to the last taxpayer of record at the address shown on the tax rolls of the County in which the property is located, and the occupants at the address of the property if those persons are different than the person in charge, and to the property manager or its designee in the case of multi-family residential property, and to any other known person in charge, with a second notice, which notice shall inform the owners, occupants, property manager (if applicable) and any other person in charge that the property in question has become and is in fact a chronic nuisance property under section [5-10-2](#) of this chapter, describe all of the acts and conduct forming the basis for the determination that the property in question is a chronic nuisance property, and demand that the owner(s) and occupant(s) of the property and the property manager in the case of multi-family residential property, and any other person in charge respond and meet with the



Chief of Police within fourteen (14) days of the date of the notice to determine and implement a course of action which will result in the abatement of the property as a chronic nuisance property.

3. Proof that the notices requested under this section were sent or given in the manner required hereunder shall be deemed proof that the owners or occupants, property manager, and/or other person in charge of the property to which the notices related received such notices. Notice to an owner, occupant, property manager, or other person in charge shall not obviate or excuse any other party from his, her, their or its obligations under this chapter.

B. Abatement Plan: At the meeting between the Chief of Police and the parties notified who are in attendance, the Chief of Police may request that the owner, person in charge, or his, her or its tenant and/or the property manager for the multi-family residential development or building in which the property lies in the case of multi-family residential property, implement a reasonable abatement and/or mitigation plan designed to obviate and prevent future occurrences of the nuisance activity upon the property. The mitigation or abatement plan shall be reasonable under the circumstances in its objective, cost and scope and shall commence to be implemented within seven (7) days of the meeting with the Chief of Police and fully implemented within thirty (30) days of said meeting, or such longer period as allowed by the Chief of Police if not practically feasible to complete within thirty (30) days.

1. If the nuisance activity complained of has or is being conducted by a tenant and/or other occupants residing in or on the property, the Chief of Police may request the owner, person in charge and/or property manager to evict the tenant and all occupants. In the event eviction is requested, the owner, or person in charge shall proceed with such action forthwith and in good faith.

2. The Village will assist in the eviction action by reasonably cooperating with the owner, person in charge, and/or property manager, including, but not limited to, providing upon reasonable advance notice of any trial, law enforcement officers, and if applicable, other Municipal employees as witnesses regarding the nuisance activity if relevant.

C. No Admission: When any party affected by this section responds and meets with the Chief of Police as required above, no statements made in connection with the furnishing of that response or in a meeting shall constitute or be used as an admission that any nuisance activity has or is occurring. This subsection does not require the exclusion of any other evidence which is otherwise admissible and offered for any other purpose than an admission by a person affected by this chapter. (Ord. 2017-114, 9-5-2017)

5-10-4: ABATEMENT WHERE NO SPECIFIC PROVISION EXISTS:  

In all cases where no provision has been made in any section of this Code or any ordinance of

the Village defining what nuisances are and how the same may be removed, vacated or prevented and in addition to whatever may be declared as a nuisance in this chapter or other ordinances of the Village, those offenses which are known to be the common law of the land and the Statutes of the State as nuisances may, in case the same existing within the limits of the Village to be treated as such. (Ord. 2017-114, 9-5-2017)

5-10-5: ENFORCEMENT; ABATEMENT REMEDY; PENALTY:  

A. Abatement Of Nuisance: The Village may commence an action in the Circuit Court for a determination that the property is a chronic nuisance property and/or to abate a chronic nuisance property as described above.

B. Injunctive Relief: Upon being satisfied by affidavits or other sworn evidence that an alleged chronic nuisance property exists, the court may, without notice or bond, enter a temporary restraining order or a preliminary injunction or permanent injunction to enjoin any defendant from maintaining such chronic nuisance property and may enter an order restraining any defendant from occupying, using or interfering with all property used in connection with the chronic nuisance property.

C. Burden Of Proof:

1. In an action seeking closure of a chronic nuisance property, the Village shall have the initial burden of showing by a preponderance of the evidence that the property is a chronic nuisance property.
2. It is a defense to an action seeking the closure of a chronic nuisance property that the owner of the property or person(s) in charge, at the time in question, could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic nuisance property, or could not in spite of the exercise of reasonable care and diligence, control the conduct of others in possession leading to the findings that the property is a chronic nuisance property.
3. In establishing the amount of any civil penalty requested, the court may consider any of the following factors if they are found appropriate, and shall cite those found applicable:
  - a. The actions or lack of action taken by the owner or person(s) in charge to mitigate or correct the nuisance activity at the property.
  - b. Whether the nuisance activity at the property was repeated or continuous.
  - c. The magnitude or gravity of the nuisance activity at the property.



- d. The cooperation of the owner or person(s) in charge of the property with the Village.
- e. The cost to the Village of investigating and correcting or attempting to correct the condition.

D. Remedy:

1. In the event a court determines a property to be a chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than thirty (30) days, but not more than one hundred eighty (180) days or until all the nuisance activities and/or violations complained of are abated or the court may employ any other remedy deemed by it appropriate to abate the nuisance.

2. In addition to the remedy provided in subsection D1 of this section, the court may impose upon the owner, person(s) in charge and/or occupant(s) of the property in question a civil penalty in an amount not to exceed seven hundred fifty dollars (\$750.00) per day, payable to the Village of Bartlett for each day the owner, person(s) in charge and/or occupant(s) had actual knowledge that the property was a chronic public nuisance property and permitted the property to remain a chronic public nuisance property.

3. In determining what remedy or remedies to employ, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:

a. The disturbance of neighbors.

b. The occurrence of other nuisances on or from the property, excluding therefrom occurrences involving: 1) contacts with the intent to prevent or respond to actual or threatened domestic violence or sexual violence; 2) intervention of emergency assistance to respond to or prevent domestic violence or sexual violence; 3) contact concerning an individual with a disability and the purpose of contact; or 4) criminal activity related to actual or threatened domestic violence or sexual violence, except as provided in subsection Y under the definition of nuisance activities.

c. The property's general reputation and/or the reputation of persons in or frequenting the property.

4. The court may authorize the Village to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court. In the event that the Village is authorized to secure the property, all costs reasonably incurred by the Village to effect the closure shall be made and assessed as a lien against the property and a debt to the Village. As used herein, "costs" mean those costs actually incurred by the Village for the physical securing of the property.

5. The Police Department, Village Building Department and/or Community Development Department employee(s) effecting the closure shall prepare a statement of costs, and the Village shall thereafter submit said statement to the court for its review. If no objection of the statement

is made within the period described by the court, a lien in said amount may be recorded against said property.

6. Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the Village. (Ord. 2017-114, 9-5-2017)

Footnotes - Click any footnote link to go back to its reference.



[Footnote 1](#): 720 ILCS 5/1-1, et seq.

[Footnote 2](#): 720 ILCS 550/1, et seq.

[Footnote 3](#): 720 ILCS 570/100, et seq.

[Footnote 4](#): 720 ILCS 646/1, et seq.

Chapter 19-100

SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES USED IN THE COMMISSION OF CERTAIN OFFENSES  

6-19-100: DEFINITIONS:

6-19-101: VEHICLE SEIZURE AND IMPOUNDMENT:

6-19-102: VIOLATION OR OFFENSES SUBJECT TO SEIZURE AND IMPOUNDMENT:

6-19-103: EXISTING REGULATIONS NOT ABROGATED:

6-19-104: EXCEPTIONS:

6-19-105: NOTICE; TOWING; RELEASE:

6-19-106: HEARINGS:

6-19-107: ADMINISTRATIVE PENALTY:

6-19-108: VEHICLE POSSESSION:

6-19-109: HEARING OFFICER:

6-19-110: DECISION REVIEW:

6-19-100: DEFINITIONS:  

The definitions set forth in chapter 1, section 5/1-101 through 5/1-300 as subsequently renumbered of the Illinois vehicle code<sup>1</sup> are hereby expressly incorporated herein by reference and made a part hereof. (Ord. 2010-79, 10-19-2010)

6-19-101: VEHICLE SEIZURE AND IMPOUNDMENT:  

Any motor vehicle operated, used, or in the physical control of any person, with the express or implied permission of the owner of record (as registered with the secretary of state, state of Illinois), on any public highway within the village of Bartlett during the commission of or in furtherance of any offense or violation set forth in section 6-19-102 of this part shall be subject to seizure and impoundment by the village of Bartlett and the owner of record of said vehicle shall be liable to the village for a civil penalty in an amount not to exceed five hundred dollars (\$500.00), in addition to any towing and storage fees as hereinafter provided. (Ord. 2012-48, 6-5-2012)

6-19-102: VIOLATION OR OFFENSES SUBJECT TO SEIZURE AND IMPOUNDMENT:



<u>Violation Or Offense</u>		<u>Statute Reference</u>
A.	Driving while driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked, excluding a suspension for unpaid citation (parking or moving) or due to failure to comply with emission testing	625 ILCS 5/6-303



B.	Driving under the influence of alcohol, other drug or drugs, intoxicating compounds, or any combination thereof or similar provision of this code	625 ILCS 5/11-501
C.	Aggravated fleeing or attempt to elude a police officer	625 ILCS 5/11-204.1
D.	(Rep. by Ord. 2017-17, 2-21-2017)	
E.	Firearms offenses including unlawful use of a weapon	720 ILCS 5/24-1
	Unlawful use or possession of weapons by a felon	720 ILCS 5/24-1.1
	Aggravated discharge of a firearm	720 ILCS 5/24-1.2
	Reckless discharge of a firearm	720 ILCS 5/24-1.5
	Aggravated unlawful use of a weapon	720 ILCS 5/24-1.6
F.	Possession of a controlled substance	720 ILCS 570/402
G.	Possession of cannabis <del>in excess of 30 grams</del> (more than 100 grams but not more than 500 grams)	720 ILCS 550/4(e), (d), (e), (f), and (g)
H.	(Rep. by Ord. 2017-17, 2-21-2017)	
I.	(Rep. by Ord. 2017-17, 2-21-2017)	
J.	(Rep. by Ord. 2017-17, 2-21-2017)	
K.	(Rep. by Ord. 2017-17, 2-21-2017)	
L.	Any crime defined as a "forcible felony" when it also involves the use of a vehicle	720 ILCS 5/2-8
M.	Driving without a valid driver's license:	625 ILCS 5/6-101
	1. Except a person that had a valid driver's license that is expired for less than 1 year	
	2. Except a person who is less than 17 years of age operating a motor vehicle on any street or highway whose license may be invalid because of a violation of the Child Curfew Act <sup>1</sup>	
N.	<b>Operation or use of a motor vehicle to manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act;</b>	<b>720 ILCS 550/5 (c), (d), (e), (f), (g) and 720 ILCS 570/401</b>

Note:

1.625 ILCS 5/6-107.1(b). See also section [5-5-1](#) of this Code.

(Ord. 2017-17, 2-21-2017)

6-19-103: EXISTING REGULATIONS NOT ABROGATED:  

A. The provisions of this part shall be in addition to and shall not replace or otherwise abrogate any existing State or Federal law or Village ordinance that relates to the seizure and/or impoundment of motor vehicles, and any penalty provided herein shall be in addition to any and all penalties that may be assessed or imposed by a court for violation of any criminal offense or local ordinance violation offense.

B. Any and all fees incurred for towing and/or storage of a vehicle seized under this part or part 4 of this title shall be those approved by the Chief of Police for all towing companies authorized to tow for the Village, which shall be charged in addition to the civil penalty imposed by section 6-19-101 of this part. (Ord. 2010-79, 10-19-2010)

6-19-104: EXCEPTIONS:  

The provisions of this part shall not apply if at the time of the offense the vehicle was stolen and the theft was reported to the appropriate police authority within twenty four (24) hours after the theft was discovered, or the vehicle was otherwise operated without the knowledge and express or implied consent of the registered owner, or as otherwise provided by law. (Ord. 2010-79, 10-19-2010)

6-19-105: NOTICE; TOWING; RELEASE:  

A. Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this part and the police officer has arrested the operator or person in physical control of the vehicle for any of the offenses set forth in section 6-19-102 of this part, the police officer shall provide for the towing of the vehicle to a facility authorized by the Village. Prior to or at the time the vehicle is towed, the police officer shall notify or make a reasonable attempt to notify the owner, lessee or any person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in the physical control of the vehicle at the time of the alleged offense, of the fact of the seizure and of the vehicle owner's or lessee's right to request a preliminary vehicle impoundment hearing to be conducted in accordance with subsection 6-19-106A of this part and hearing pursuant to subsection 6-19-106B of this part. The vehicle shall be impounded pending the completion of the hearing(s) provided for in subsections 6-19-106A and B of this part, unless the owner or lessee of the vehicle or



someone on his, her or their behalf, or a lienholder, posts with the Village a cash bond in the amount of five hundred dollars (\$500.00) and pays the towing and storage charges.

B. Notwithstanding the provisions of subsection A of this section, the arresting police officer may release the vehicle prior to towing if the vehicle subject to seizure and impoundment was not owned or leased by the person placed under arrest and the registered owner or some other person legally authorized to possess the vehicle shall arrive at the scene of the arrest prior to the actual removal or towing of the vehicle and the lawful owner or person lawfully entitled to possession of the vehicle possesses a valid operator's license, proof of ownership or registration, proof of liability insurance and would not, as determined by the arresting police officer, indicate a lack of ability to operate the motor vehicle in a safe manner, or who would otherwise, by operating the motor vehicle, not be in violation of the Illinois Vehicle Code. If the vehicle subject to seizure and impoundment is owned or leased by the person under arrest, the arresting officer may, prior to the actual removal or towing of the vehicle, release the vehicle to another person with the written consent of the owner or lessee, provided that such other person possesses a valid operator's license, proof of liability insurance and would not, as determined by the arresting police officer, indicate a lack of ability to operate the motor vehicle in a safe manner or who would otherwise, by operating the motor vehicle, not be in violation of the Illinois Vehicle Code. (Ord. 2012-48, 6-5-2012)

6-19-106: HEARINGS:  

A. Preliminary Hearing: The owner of record or lessee of a vehicle seized and impounded may contest the seizure and impoundment of the vehicle by requesting a preliminary hearing. The owner or lessee must make a request for a preliminary hearing within twenty four (24) hours of the seizure. The request shall be deemed filed upon delivery to the Chief of Police of the Bartlett Police Department. The preliminary hearing request shall be in writing and the Chief of Police or his/her designee shall conduct the preliminary hearing within twenty four (24) hours after receipt of the request, excluding Saturdays, Sundays, or Village holidays, in which case the preliminary hearing shall be heard on the next business day after the request. All interested parties shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence shall not apply at the hearing, and hearsay evidence shall be admissible only if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the Chief of Police or his/her designee determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment, he/she shall order the continued impoundment of the vehicle as herein provided, unless the owner or lessee of the vehicle, or lienholder, posts with the Village a cash bond in the amount of five hundred dollars (\$500.00), and pays any and all applicable towing and storage fees. If the Chief of Police or his/her designee determines that there is no such probable cause to believe the vehicle was used or operated during the commission or attempted commission of the offense set forth in section 6-19-102 of this part, the vehicle shall be returned to the registered owner or lessee without penalty. (Ord. 2012-48, 6-5-2012)



B. Notice; Procedures; Hearings: Within ten (10) days after a vehicle is seized and impounded, the Chief of Police or his/her designee shall notify the registered owner of record, lessee of record, and any lienholder of record, of the seized and impounded vehicle either by personal service or by first class mail, to the interested party's address as recorded with the Secretary of State, of the date, time and location of the hearing to be conducted. The initial hearing shall be scheduled and convened no later than forty five (45) days after the date of the mailing of the notice of the hearing. The owner, lessee and/or lienholder shall appear at the hearing and shall enter a determination to contest or not contest the basis of the seizure and impoundment. If the owner, lessee or lienholder elects to contest the basis for the impoundment and seizure, a hearing shall be held immediately, unless continued by order of the Hearing Officer. Continuances shall only be granted for good cause shown. All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the Hearing Officer may, at the request of the registered owner or lessee of the vehicle, lienholder of record, or the Village, direct witnesses to appear and give testimony at the hearing. Subpoenas for the production of witnesses and records may be issued upon request of any interested party. The formal rules of evidence shall not apply at the hearing, and hearsay evidence shall be admissible only if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the Hearing Officer determines by a preponderance of the evidence that the vehicle was used or operated in connection with or during the commission or attempted commission of any offense set forth in section 6-19-102 of this part, the Hearing Officer shall enter an order finding the owner of record and/or lessee of the vehicle civilly liable to the Village for an administrative penalty in an amount of five hundred dollars (\$500.00), and the Hearing Officer shall order the vehicle to remain impounded until the owner, lessee or someone on the owner's or lessee's behalf, or the lienholder, pays the administrative penalty to the Village plus any and all fees to the towing entity or Village for the towing and storage of the vehicle as the case may be. At the conclusion of the administrative hearing, the Administrative Hearing Officer shall issue a written decision either sustaining or overruling the vehicle impoundment. If the basis for the vehicle impoundment is sustained by the Administrative Hearing Officer, any administrative fee or bond posted to secure the release of the impounded vehicle shall be forfeited to the Village. Unless the Administrative Hearing Officer overturns the basis for the vehicle impoundment, no vehicle shall be released to the owner, lessee, or lienholder of record until all administrative fees and towing and storage charges are paid. If after proper service of notice, the owner of record, lessee, and/or lienholder of record fails to appear at the hearing, the Hearing Officer shall conduct the hearing in absentia and, if appropriate, enter a default order in favor of the Village, a copy of which default order shall be sent to the registered owner and/or lessee of record by first class mail or personal service. If at the hearing held in absentia the Hearing Officer finds that no such violation occurred, the Hearing Officer shall order the immediate return of the vehicle and cash bond, if posted, to the owner or lessee without assessing any penalty. If the Administrative Hearing Officer finds that the Village impounded a vehicle exceeding its authority under this Code, the Village shall be liable to the registered owner or lessee of the vehicle for the cost of storage fees and reasonable attorney's fees.


C. Official Record: All hearings shall be recorded and said recording shall be the official record of the proceedings. All findings, decisions and orders of the Hearing Officer shall be reduced to writing, signed by the Hearing Officer at the conclusion of the administrative hearing, with a copy given to the owner, lessee and/or lienholder who is or are present, and otherwise served upon all interested parties within seven (7) days after the hearing by first class mail or personal service. (Ord. 2018-30, 4-3-2018)

6-19-107: ADMINISTRATIVE PENALTY:  

If an administrative penalty is imposed, the penalty, or balance of the penalty, shall constitute a debt due and owing to the Village of Bartlett. All fines or penalties shall be paid into the General Corporate Fund of the Village of Bartlett. If a cash bond has been posted the bond shall be forfeited and applied to the penalty. If a vehicle is impounded when a penalty is imposed, and no cash bond has been posted or the bond posted is insufficient to pay the full amount of the penalty imposed, the Village may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Unless stayed by a court of competent jurisdiction, any fine, penalty or administrative fee imposed under this title which remains unpaid in whole or in part after the deadline for seeking judicial review under the Administrative Review Law may also be enforced against the owner or lessee in the same manner as a judgment entered by a court of competent jurisdiction. Except as may otherwise be provided in this part, all vehicles shall continue to be impounded until the penalty is paid to the Village and any applicable towing and storage fees are paid to the towing entity or Village, as the case may be, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle, or the vehicle is sold or otherwise disposed of to satisfy a judgment and lien as provided by law. If the vehicle is not retrieved from the towing facility or storage facility and the administrative penalty imposed and applicable towing and storage fees are not paid within thirty (30) days after the expiration of time in which administrative review of the Hearing Officer's determination may be sought, or within thirty (30) days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the vehicle shall be deemed abandoned or unclaimed. The vehicle may be disposed of in the manner provided by law for the disposition of abandoned or unclaimed vehicles under article II, chapter 4<sup>2</sup>, of the Illinois Vehicle Code, and section 6-4-308 of this title and further provided all required notices have been sent in the manner provided by law. (Ord. 2018-30, 4-3-2018)

6-19-108: VEHICLE POSSESSION:  

Except as may otherwise be provided by law or by order of the Hearing Officer, no owner, lienholder of record, or other person shall be legally entitled to take possession of a seizure and impoundment vehicle until the bond, administrative penalty and towing and storage fees have been paid. The foregoing notwithstanding, whenever a person or other entity with a lien of record against an impounded vehicle has commenced foreclosure or repossession proceedings, possession of the vehicle shall be given to that person if the lienholders of record, each agree in writing to refund to the Village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lienholders of record, not to exceed the administrative penalty, plus the applicable towing and storage fees. (Ord. 2010-79, 10-19-2010)

6-19-109: HEARING OFFICER:  

The Hearing Officer shall be appointed by the Village President with the advice and consent of the Village Board of the Village of Bartlett. The Hearing Officer shall be an attorney licensed to practice law in the State of Illinois for a minimum of three (3) years next preceding the date of his/her appointment. (Ord. 2010-79, 10-19-2010)

6-19-110: DECISION REVIEW:  

Any party aggrieved by a final decision of the Hearing Officer may appeal that decision under the Illinois Administrative Review Law<sup>3</sup>. (Ord. 2018-30, 4-3-2018)

Footnotes - Click any footnote link to go back to its reference.

[Footnote 1](#): 625 ILCS 5/1-100 et seq.

[Footnote 2](#): 735 ILCS 5/1-101 et seq.



**CHAPTER 8  
CANNABIS AND DRUG PARAPHERNALIA**

**5-8-1: DEFINITIONS:**

**5-8-2: POSSESSION OR PURCHASE OF CANNABIS BY PERSONS UNDER 21 PROHIBITED**

**5-8-3: POSSESSION OR USE OF CANNABIS BY PERSONS 21 AND OLDER PROHIBITED**

**5-8-4: PARENTAL RESPONSIBILITY:**

**5-8-5: RESTRICTIONS ON HOME CANNABIS CULTIVATION:**

**5-8-6: POSSESSION, SALE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED:**

**5-8-7: EXEMPTIONS:**

**5-8-8: POSSESSION, SALE OR DELIVERY OF CANNABIS PARAPHERNALIA BY PERSONS UNDER 21 PROHIBITED:**

**5-8-8: PENALTY:**

**5-8-1: DEFINITIONS:**

**CANNABIS:** Means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means and includes for purposes of this chapter, cannabis flower, cannabis concentrate, and cannabis-infused product, unless those specific terms are used separately to differentiate separate regulations for any of them.

**CANNABIS BUSINESS ESTABLISHMENT:** means a cultivation center, craft grower, processing organization, dispensing organization, or transporting organization, as those terms are defined in the Cannabis Regulation and Tax Act.<sup>1</sup>

**CANNABIS CONCENTRATE:** Means a product derived from cannabis that is produced by extracting cannabinoids, including tetrahydrocannabinol (THC), from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water ice, or dry ice; or butane, propane, CO<sub>2</sub>, ethanol, or isopropanol and with the intended use of smoking or making a cannabis-infused product. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.

**CANNABIS CONTAINER:** Means a sealed, traceable, container, or package used for the purpose of containment of cannabis or cannabis-infused product during transportation.

**CANNABIS FLOWER:** Means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica of all strains of cannabis; including raw kief, leaves, and buds, but not resin

that has been extracted from any part of such plant; nor any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin.

**CANNABIS-INFUSED PRODUCT:** Means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis, or cannabis concentrate that is not intended to be smoked.

**CANNABIS PARAPHERNALIA:** Means equipment, products, or materials intended to be used for planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, or otherwise introducing cannabis into the human body.

**CONTROLLED SUBSTANCE:** Shall have the meaning ascribed to it in section 102 of the Illinois Controlled Substances Act<sup>2</sup>, as the same may be amended from time to time, which statute and definition as the same may be amended are hereby expressly incorporated herein.

**DELIVER OR DELIVERY:** The actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

**DRUG PARAPHERNALIA:** All equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in section 10 of the Methamphetamine Control and Community Protection Act<sup>3</sup> and cannabis paraphernalia as defined in Section 1-10 of the Cannabis Regulation and Tax Act<sup>4</sup>, which are intended to be used unlawfully in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Illinois Controlled Substances Act<sup>5</sup>; or the Methamphetamine Control and Community Protection Act<sup>6</sup>; or a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act<sup>7</sup>. It includes, but is not limited to:

- A. Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing a controlled substance.
- B. Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is a controlled substance.
- C. Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of a controlled substance.
- D. Diluents and adulterants intended to be used unlawfully for cutting a controlled substance by private persons.
- E. Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cocaine, a synthetic drug product or misbranded drug in violation of the Illinois Food, Drug and Cosmetic Act<sup>8</sup>, into the human body including, where applicable, the following items:
  1. Water pipes;

2. Carburetion tubes and devices;
3. Smoking and carburetion masks;
4. Miniature cocaine spoons and cocaine vials;
5. Carburetor pipes;
6. Electric pipes;
7. Air driven pipes;
8. Chillums;
9. Bonges;
10. Ice pipes or chillers.

F. Any item whose purpose, as announced or described by the seller, is for use in violation of section 5-8-3 of this chapter.

**POSSESS:** An act of physical dominion over cannabis, cannabis paraphernalia, and/or drug paraphernalia or exclusive control over the premises where the cannabis, cannabis paraphernalia, and/or drug paraphernalia is found. For purposes of this definition, exclusive control may occur even though possession is jointly held or shared.

**PUBLIC PLACE:** any place where a person could reasonably be expected to be observed by others. "Public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" includes all areas in a park, recreation area, wildlife area or playground owned in whole or in part, leased, or managed by the State. "Public place" does not include a private residence unless the private residence is used to provide licensed childcare, foster care, or other similar social service care on the premises.

**5-8-2: POSSESSION OR PURCHASE OF CANNABIS BY PERSONS  
UNDER 21 PROHIBITED:**

- A. It shall be unlawful for any person under 21 years of age to knowingly possess cannabis within the corporate limits of the Village of Bartlett, unless said possession is authorized by the Compassionate Use of Medical Cannabis Program Act<sup>9</sup> or by the Community College Cannabis Vocational Pilot Program<sup>10</sup>. For purposes of this subsection, "knowingly" means consciously aware of the presence of cannabis or awareness of the substantial probability of the presence of cannabis.
- B. It shall be unlawful for any person under 21 years of age to purchase, attempt to purchase, or otherwise obtain or attempt to obtain cannabis from a cannabis business establishment or gain access to a cannabis business establishment.



- C. It also shall be unlawful for any person under 21 years of age to misrepresent his or her identity of age, or to use any false, fraudulent, or not actually their own identification for the purpose of purchasing, attempting to purchase, or otherwise obtaining or attempting to obtain cannabis; or gaining access to a cannabis business establishment.
- D. It shall be unlawful for any person after purchasing or otherwise obtaining cannabis to sell, distribute, transfer, give, or deliver such cannabis to another person under 21 years of age within the corporate limits of the Village of Bartlett unless authorized by the Compassionate Use of Medical Cannabis Program Act<sup>11</sup> or by the Community College Cannabis Vocational Pilot Program<sup>12</sup>.

**5-8-3: POSSESSION OR USE OF CANNABIS BY PERSONS 21 AND OLDER PROHIBITED:**

- A. Except if otherwise authorized by the Cannabis Regulation and Tax Act, it shall be unlawful for any person who is 21 years of age or older and a resident of the State of Illinois to knowingly possess in excess of 30 grams of cannabis flower; in excess of 500 milligrams of THC contained in cannabis-infused product; or in excess of 5 grams of cannabis concentrate. The possession limits are to be considered cumulative.
- B. Except if otherwise authorized by the Cannabis Regulation and Tax Act, it shall be unlawful for any person who is 21 years of age or older and a non-resident of the State of Illinois to knowingly possess in excess of 15 grams of cannabis flower; in excess of 2.5 grams of cannabis concentrate; or in excess of 250 milligrams of THC contained in a cannabis-infused product. The possession limits are to be considered cumulative.
- C. No person who is 21 years of age or older shall knowingly possess cannabis in the corporate limits of the Village of Bartlett:
  - 1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;
  - 2. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;
  - 3. in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or
  - 4. in a private residence that is used at any time to provide licensed childcare or other similar social service care on the premises
- D. No person who is 21 years of age or older shall knowingly use cannabis in the corporate limits of the Village of Bartlett:
  - 1. in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act<sup>13</sup>;

2. on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act<sup>14</sup>;
  3. in any motor vehicle;
  4. in a private residence that is used at any time to provide licensed childcare or other similar social service care on the premises;
  5. in any public place; or
  6. knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Program Act<sup>15</sup>;
- E. No person who is 21 years of age or older shall knowingly smoke cannabis in the corporate limits of the Village of Bartlett in any place where smoking is prohibited under the Smoke Free Illinois Act<sup>16</sup>.
- F. No person who is 21 years of age or older shall knowingly smoke or vape cannabis in the corporate limits of the Village of Bartlett in any place where smoking and vaping are prohibited under the Bartlett Smoke and Vape Free Ordinance set forth in title 4, chapter 4, of this code.
- G. No person who is 21 years of age or older and either a resident or non-resident of the State of Illinois shall knowingly obtain, seek to obtain, or possess an amount of cannabis from a dispensing organization or craft grower that would cause him or her to exceed the possession limit under this Section, including cannabis that is cultivated by a person under the Cannabis Regulation and Tax Act<sup>17</sup> or obtained under the Compassionate Use of Medical Cannabis Program Act<sup>18</sup>.

**5-8-4: PARENTAL RESPONSIBILITY:**

It shall be unlawful for any parent or guardian to knowingly permit his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of 21, in a manner that constitutes a violation of the Cannabis Regulation and Tax Act<sup>19</sup> or of this chapter. A parent or guardian is deemed to have knowingly permitted his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used in violation of the Cannabis Regulation and Tax Act<sup>20</sup> or this chapter, if he or she knowingly authorizes or permits consumption of cannabis by underage invitees. In this section, where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

**5-8-5: RESTRICTIONS ON HOME CANNABIS CULTIVATION:**

- A. Except if otherwise authorized by the Cannabis Regulation and Tax Act<sup>21</sup>, it shall be unlawful for an Illinois resident 21 years of age or older who is a registered qualifying patient under the Compassionate Use of Medical Cannabis Program Act<sup>22</sup> to:

1. cultivate more than the allowable number of 5 cannabis plants at one time;
  2. sell or give away home cultivation or dispensary cannabis plants, cannabis seeds, cannabis, or cannabis-infused products;
  3. allow home cannabis cultivation to take place in an area other than an enclosed, locked space;
  4. store or place home cultivation cannabis plants in a location where they are subject to ordinary public view;
  5. prevent the home cultivation cannabis plants from being secure from unauthorized access, including unauthorized access by a person under 21 years of age;
  6. allow anyone else to tend to their home cultivation cannabis plants besides their authorized agent attending to the residence for brief periods, such as when the qualifying patient is temporarily away from the residence;
  7. produce in excess of 30 grams of raw cannabis or its equivalent unless it remains secured within the residence or residential property in which it was grown within the corporate limits of the Village of Bartlett.
- B. In this section, "resident" means a person who has been domiciled in the State of Illinois for a period of 30 days before cultivation.
- C. In this section "ordinary public view" means within the sight line with normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property.

**5-8-6: POSSESSION, SALE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED:**

- A. No person shall keep for sale, offer for sale, sell, or deliver for any commercial consideration any item of drug paraphernalia.
- B. In determining whether or not a particular item is exempt under this section, the trier of fact should consider, in addition to all other logically relevant factors, the following:
1. The general, usual, customary, and historical use to which the item involved has been put;
  2. Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
  3. Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;



4. Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
5. Any national or local advertising concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;
6. The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
7. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
8. The existence and scope of legitimate uses for the object in the community.

**5-8-7: EXEMPTIONS REGARDING DRUG PARAPHERNALIA:**

Section 5-8-3 of this chapter shall not apply to the following:

- A. Items used in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, chemical analysis, use in law enforcement activities and which is not offered for sale.
- B. Items historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of cannabis, tobacco, or any other lawful substance. Items exempt under this subsection include, but are not limited to, garden hoses, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.
- C. Items which are used for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this chapter.
- D. A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act<sup>23</sup>.

**5-8-8: POSSESSION, SALE OR DELIVERY OF CANNABIS PARAPHERNALIA BY PERSONS UNDER 21 PROHIBITED:**

- A. No person shall offer for sale, sell or deliver for any commercial consideration any item of cannabis paraphernalia to a person under 21 years of age unless the person the cannabis paraphernalia is being sold to or delivered to is legally authorized to possess medical cannabis paraphernalia used in connection with medical use of cannabis as allowed under the Compassionate Use of Medical Cannabis Program Act<sup>24</sup> or by the Community College Cannabis Vocation Pilot Program.<sup>25</sup>

- B. It is unlawful for any person under the age of 21 to use or to possess or offer for sale an item of cannabis paraphernalia with the intent to use it, or offer for sale for the use by others, in ingesting, inhaling, or otherwise introducing cannabis into the human body, or in preparing cannabis flower, cannabis concentrate or any cannabis-infused product for that use to inhale or introduce cannabis flower, cannabis concentrate or cannabis-infused product into the human body. This subsection shall not apply to possession of cannabis paraphernalia by a person under 21 years of age who is legally authorized to possess cannabis paraphernalia used in connection with the medical use of cannabis as allowed under the Compassionate Use of Medical Cannabis Pilot Program Act<sup>26</sup> or by the Community College Cannabis Vocational Pilot Program.<sup>27</sup>
- C. In determining intent under subsection B of this section, the trier of fact may take into consideration the proximity of the cannabis to cannabis paraphernalia.
- D. Cannabis paraphernalia seized, taken or detained from persons under 21 pursuant to probable cause and in conformance with all applicable laws, shall be forfeited upon a finding by the circuit court or the local adjudication hearing officer, upon trial, hearing or plea of guilty, that this Section has been violated.

**5-8-9: PENALTY:**

Any person violating any provision of this chapter shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00). In addition to any other penalties already provided for by law and this chapter, a person or store owner convicted of selling drug paraphernalia, or cannabis paraphernalia to persons under 21 years old (unless allowed under the Compassionate Use of Medical Cannabis Program Act<sup>28</sup> or by the Community Cannabis Vocation Program<sup>29</sup>) shall be subject to having his, her, their or its license to sell tobacco, alternative tobacco products, and cannabis, or any of them, revoked.

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<sup>2</sup> 720 ILCS 570/100, et seq.

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<sup>5</sup> 720 ILCS 570/100, et seq.

<sup>6</sup> 720 ILCS 646/1, et seq.

<sup>7</sup> 410 ILCS 620/1, et seq.

<sup>8</sup> 410 ILCS 620/1, et seq.

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