

Ordinance No. 2174
City of Madison Heights
Oakland County, Michigan
Zoning Text Amendment 21-10

An ordinance to amend Ordinance 571, being an ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Appendix A, to amend the list of permitted uses in the B-1, B-2, B-3, M-1, M-2, and High Rise zoning districts in the following sections: Sec 10.318 – Principal uses permitted (B-1); Sec. 10.319 – Uses permissible on special approval (B-1); Sec. 10.321 – Principal uses permitted (B-2); Sec. 10.322 – Uses permissible on special approval (B-2); Sec. 10.325 – Principal uses permitted (B-3); Sec. 10.326 – Uses permissible on special approval (B-3); Sec. 10.328 – Principal uses permitted (M-1); Sec. 10.329 – Uses permissible on special approval (M-1); Sec. 10.322 – Principal uses permitted (M-2); Sec. 10.322A – Uses permissible on special approval (M-2); Sec. 10.1802 – Principal uses permitted (High Rise); and Sec. 10.1805 – Uses permissible on special approval (High Rise). The amendment includes provisions relating to restaurants with drive-through lanes.

The City of Madison Heights ordains:

Section 1. Section 10.318 (B-1 Principal uses permitted) is hereby amended to read as follows:

(5) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed below. Special approval is required for outdoor seating at any restaurant that serves alcohol.

a. Outdoor seating is subject to the following standards:

- i. The hours of operation cannot exceed the normal operating hours of the indoor establishment.
- ii. **Location.** No outdoor seating shall occupy any required setback area. Outdoor seating areas shall be located in a manner to maintain a minimum pathway width of six (6) feet (clear of structures such as light poles, trees, and hydrants) along the sidewalk so as not to interfere with pedestrian traffic. In the instances the minimum width for the pathway is not maintained, an alternate pathway should be provided to maintain pedestrian connectivity between other uses and public pathways.
- iii. Properties that abut residential districts are subject to the following additional standards:

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Second Reading: 11-22-21
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- (a) Outdoor seating areas shall be setback a minimum of 40' from any property line that abuts residential district(s). If located on the side, the side(s) of the seating area that face adjacent residential districts shall be screened by a minimum 8' high solid obscuring wall.
 - (b) Outdoor seating area(s) shall be at grade and on the side or front of any building which abuts any residential district. Rooftop seating is not permitted.
 - (b) External speakers or live entertainment may be permitted up to close of the business and shall not exceed 25 decibels at the property line abutting the residential district.
- iv. For properties that do not abut residential districts, the following amenities may be permitted:
 - (a) Rooftop seating may be permitted.
 - (b) External speakers or live entertainment may be permitted up to close of the business and shall not exceed 65 decibels between the hours of 7:00 a.m. and 11:00 p.m. or 50 decibels between the hours of 11:00 p.m. and 7:00 a.m. at the property line.
- v. **Parking.** For plans showing more than twenty (20) occupants within the outdoor seating area or when the minimum required parking for proposed outdoor seating exceeds twenty percent of total parking required, whichever is less, requirements for off-street parking for outdoor restaurants shall be computed according to the standards contained in Section 10.505 – Parking Requirements, as indicated for restaurant use.
- vi. **Enclosure and Shade Structures.** Proposed enclosures or shade structures are subject to the following standards:
 - (a) Outdoor seating areas shall be required to be enclosed in instances where there is alcohol service or when located within 15 feet of parking or maneuvering lanes. Enclosures shall be a minimum of 36 inches tall and shall consist of metal railing, wood railing, brick walls, bollards, or other suitable materials, subject to the approval of the approving body.
 - (b) Temporary open shade structures such as an umbrella similar to what is used in a residential backyard may be permitted without a building permit.

(c) Other enclosed structures such as tents or similar, exceeding 120 square feet in size or larger or attached canopies, shall require a building permit.

vii. **Maintenance.** Chairs and tables shall be of quality durable material such as metal or wood. Waste receptacles shall be provided in instances where wait staff does not clear all tables. The outside dining area must be kept sanitary, neat, and clean at all times. It shall be free from the accumulation of food, litter, snow, ice, and other potentially dangerous or unsanitary matter.

viii. **Application Requirements.**

(a) For outdoor seating areas proposing additional parking or major landscape/hardscape improvements, a site plan shall be submitted in accordance with Section 10.514.

(b) For all other outdoor seating areas, the City Planner may allow a conceptual plan for outdoor seating providing sufficient information to determine compliance with the requirements of this section.

(c) Special approval is required for outdoor seating at any restaurant that serves alcohol.

b. **Drive-through lanes are subject to the following standards:**

i. Special approval is required for restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of Section 10.201.

ii. All vehicle stacking for a use shall occur on site. The site plan shall be designed to provide safe and efficient traffic circulation both within the site and in relation to access streets that assure the safety and convenience of pedestrian traffic, to the maximum extent possible.

iii. Drive-through facilities shall provide one bypass lane to allow unobstructed travel for vehicles to pass those waiting to be served. Such bypass lane shall be a minimum of eighteen (18) feet in width, unless otherwise determined by the Fire Marshal.

iv. Drive-through lanes shall have a minimum width of ten (10) feet.

v. Drive-through lanes shall have a minimum centerline radius of twenty-five (25) feet.

vi. Drive-through lanes shall be striped, marked, or otherwise distinctly delineated.

- vii. Drive-through stacking spaces shall have a minimum length of nineteen (19) feet.
- viii. The approving body shall make a finding that the proposed plan will not have an adverse impact on the site and on the adjacent lands and uses with respect to landscaping, screening, off-street parking, vehicular and pedestrian circulation, and the compatibility of its physical design with respect to adjacent buildings.
- ix. A minimum of ten (10) vehicle stacking spaces per drive-through lane are required. The site plan review committee or the approving body may require additional stacking spaces and/or the submittal of a stacking study for drive-through restaurants with limited or no on-site dining. The site plan review committee or the approving body may reduce the number of stacking spaces if the applicant illustrates parking can be accommodated onsite through a stacking study or other similar data to determine the minimum number of stacking spaces.

Section 2. Section 10.319 (B-1 – Uses permissible on special approval) is hereby amended to read as follows:

- (6) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of Section 10.318(5)b.

Section 3. Section 10.321 (B-2 – Principal uses permitted) is hereby amended to read as follows:

- (6) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in Section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.
 - a. Drive-through lanes are subject to the following standards:
 - i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of Section 10.201.
 - ii. Drive-through lanes are subject to the use specific standards listed in Section 10.318(5)b.

Section 4. Section 10.322 (B-2 – Uses permissible on special approval) is hereby amended to read as follows:

- (6) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of Section 10.318(5)b.

Section 5. Section 10.325 (B-3 – Principal uses permitted) is hereby amended to read as follows:

- (7) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in Section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.

a. Drive-through lanes are subject to the following standards:

- i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of Section 10.201.
- ii. Drive-through lanes are subject to the use-specific standards listed in Section 10.318(5)b.

Section 6. Section 10.326 (B-3 – Uses permissible on special approval) is hereby amended to read as follows:

- (14) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of Section 10.318(5)b.

Section 7. Section 10.328 (M-1 – Principal uses permitted) is hereby amended to read as follows:

- (12) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the following conditions:

a. Such uses shall be on parcels with frontage on arterial or collector streets as defined in Madison Heights Master Plan. The frontage requirement may be satisfied by frontage on a side street where the use has some frontage on an arterial or collector streets. Frontage on local roads may be permitted by the Planning Commission provided the applicant demonstrates compatibility with surrounding uses and connectivity to similar uses.

b. Drive-through lanes are subject to the following standards:

- i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of Section 10.201.

- ii. Drive-through lanes are subject to the use-specific standards listed in Section 10.318(5)b.
- c. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in Section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.

Section 8. Section 10.329 (M-1 – Uses permissible on special approval) is hereby amended to read as follows

- (8) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcohol beverages with outdoor seating subject to the conditions listed in Section 10.318(5) for outdoor restaurants in general.
- (9) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of Section 10.318(5)b.

Section 9. Section 10.332 (M-2 – Principal uses permitted) is hereby amended to read as follows:

- (5) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in Section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.
 - a. Drive-through lanes are subject to the following standards:
 - i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of Section 10.201.
 - ii. Drive-through lanes are subject to the use-specific standards listed in Section 10.318(5)b.

Section 10. Section 10.322A (M-2 – Uses permissible on special approval) is hereby amended to read as follows:

- (6) Establishments that primarily serve alcohol beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating subject to the conditions listed in Section 10.318(5) for outdoor restaurants in general.
- (7) Yard waste transfer, composting facilities, recycling facilities and junkyards are subject to the special approval requirements in Section 10.508(5). For purposes of this section, junkyards shall meet the standards for recycling processing facilities as outlined in Section 10.508(5)(f).

(8) Restaurants with drive-through lanes located within the boundaries of the Southend Development Authority (DDA), subject to the use-specific standards of Section 10.318(5)b.

Section 11. Section 10.1802 (*High-Rise – Principal uses permitted*) is hereby amended to read as follows:

(8) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in Section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.

a. Drive-through lanes are subject to the following standards:

i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of Section 10.201.

ii. Drive-through lanes are subject to the use-specific standards listed in Section 10.318(5)b.

Section 12. Section 10.1805 (*High-Rise – Uses permissible on special approval*) is hereby amended to read as follows:

(3) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of Section 10.318(5)b.

Section 13. Repealer

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

Section 14. Severability

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 15. Savings

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 16. Effective Date.

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

Section 17. Enactment

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and 12:30 p.m. and 4:30 p.m. on regular business days.

Roslyn Grafstein, Mayor

Cheryl Rottmann, City Clerk

CERTIFICATION:

I, Cheryl Rottmann, the duly appointed City Clerk of the City of Madison Heights, County of Oakland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Madison Heights City Council at their Regular Meeting held on _____, 2021.

Cheryl Rottmann, City Clerk

ZOTXT 21-10 (Ordinance 2174)

Planning Commission Introduction and Discussion: September 21, 2021

Planning Commission Public Hearing: October 19, 2021

City Council First Reading: November 8, 2021

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