

Ordinance No. 2182

City of Madison Heights

Oakland County, Michigan

Zoning Text Amendment 22-01

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, ZONING ORDINANCE, TO ADD SECTIONS 10.2200 THROUGH 10.2205 WHICH PROVIDE REGULATIONS PERTAINING TO MOBILE FOOD VENDORS AND THE OPERATION OF MOBILE FOOD VEHICLES ON PRIVATE PROPERTY WITHIN THE CITY.

The City of Madison Heights ordains:

Section 1. Sections 10.2200 through 10.2205 are hereby added as follows:

MOBILE FOOD VENDING

Section 10.2200 – Purpose, Intent and Applicability.

These sections are intended to: (1) expand convenient and varied eating options in the City of Madison Heights; (2) support culinary entrepreneurship and small business development by allowing mobile food vendors to operate safely within designated areas of the city; and (3) protect brick and mortar businesses that have invested in the city and that pay property taxes while allowing for new businesses to enter the market.

These provisions shall apply to businesses engaged in the cooking, preparation, and distribution of food or beverage on properties outside of the public right-of-way. These provisions do not apply to mobile food vehicles operating under a special event permit nor vehicles which distribute food and drink as they actively drive through the community (e.g. ice cream trucks). Mobile food vendors operating in the public right-of-way or on public property shall apply through the special event permitting process.

Section 10.2201 – Definitions.

- (A) *Brick and Mortar Restaurant*: A restaurant with a functional regulated kitchen located within a permanent building on a permanent foundation.
- (B) *Mobile Food Vehicle*: A licensed trailer, motorized vehicle, or any other similar mobile conveyance from which food and/or drink (prepared on-site or pre-packaged) is sold or served to the general public from a stationary location. This

definition excludes the following: (1) permanent structures which are installed on a permanent foundation; and (2) vehicles which distribute food and drink as they are driving throughout the community (i.e. mobile ice cream trucks).

- (C) *Mobile Food Vendor*: An operator of a mobile food vehicle who has obtained, or intends to obtain, a license or permit from the City to operate a mobile food vehicle.
- (D) *Mobile Food Court*: A private property which has been approved under the provisions of this Ordinance for the operation of two (2) or more mobile food vehicles as a principal use. Mobile food courts shall function as a single business and may include areas for tables, play areas, a permanent structure for alcohol sales, and other outdoor entertainment options.
- (E) *Mobile Food Site*: A private property which has been approved under the provisions of this Ordinance for the operation of a single mobile food vehicle as an accessory use.

Section 10.2202 – Approvals Required

- (A) A **private property owner** intending to designate their property as a **mobile food site** shall obtain the following approvals:
 - 1. *Mobile Food Site Approval*. The property owner shall apply for mobile food site approval in accordance with **Section 10.2203**, below. Mobile food site approval constitutes general zoning approval for the operation of a mobile food vehicle as an accessory use on the site.
- (B) A **private property owner** intending to designate their property as a **mobile food court** shall obtain the following approvals:
 - 1. *Special Use Approval*. The property owner shall apply for special use approval under the provisions of **Section 10.201** and satisfy the mobile food court standards in accordance with **Section 10.2204**, below.
 - 2. *Site Plan Approval*. Upon receiving special use approval through City Council, the property owner shall apply for site plan approval under the provisions of **Section 10.514** and satisfy the mobile food court standards in accordance with **Section 10.2204**, below.
- (C) A **mobile food vendor** shall obtain the following prior to operating a **mobile food vehicle** within the City of Madison Heights:
 - 1. *Mobile Food Vendor Certificate of Occupancy*. Mobile food vendors shall obtain a certificate of occupancy for each mobile food site and/or mobile food court in which they operate in accordance with **Section 10.2205**.

2. *Business License.* Mobile food vendors shall obtain a business license from the City Clerk in accordance with **Chapter 7** of the Code of Ordinances of the City of Madison Heights.

Section 10.2203 – Mobile Food Sites

Any person intending to create and designate a mobile food site as an accessory use on their property shall first obtain mobile food site approval in accordance with the following provisions. This section does not apply to mobile food courts.

(A) *Locational Requirements.* Mobile food sites shall satisfy all of the following locational requirements:

1. The property shall be zoned O-1, B-1, B-2, B-3, M-1 or M-2 and shall be located within the boundaries of the Southend Downtown Development Authority (DDA) district.
2. The property shall contain a principal building or use. A mobile food site shall be deemed an accessory use of a property.
3. The area dedicated for the operation of a mobile food vehicle shall be located a minimum of 100 feet from a property containing an existing brick and mortar restaurant, measured from the mobile food vehicle service window to the nearest property line of the property containing such brick and mortar restaurant(s). The 100 foot separation requirement shall only apply on the same linear block face as the mobile food vehicle. The following exceptions apply:
 - a. This standard may be waived if all of the affected brick and mortar restaurant(s) submit a letter to the Community and Economic Development Department indicating that they choose to waive the 100 foot separation requirement.
 - b. A brick and mortar restaurant owner may operate a food truck at the site of their own brick and mortar restaurant upon satisfying the remaining locational and general requirements of this Ordinance.
4. The area dedicated for the operation of a mobile food vehicle shall be located a minimum of 100 feet from a property zoned R-1, R-2, R-3 or R-M, measured from the mobile food vehicle service window to the nearest property line of the residential property. A mobile food site may be established within 100 feet of a property zoned R-1, R-2, R-3 or R-M as a special use, in compliance with the process outlined in Section 10.201.

(B) *General Requirements.* A mobile food site shall satisfy the following general requirements:

1. No more than one (1) mobile food vehicle may operate or be placed on a mobile food site at one time. Only one (1) mobile food vehicle pad may be designated on the site plan.
2. The designated mobile food vehicle pad shall be located a minimum of 15 feet from any fire hydrant and 5 feet from any property line, driveway, sidewalk, utility box or vault, accessible ramp, building entrance or exit, or emergency call box.
3. The designated mobile food vehicle pad shall be on a paved surface.
4. The placement of the mobile food vehicle shall not reduce the availability of the minimum number of parking spaces required for the principal use on site nor impede vehicular or pedestrian circulation on site.
5. No portion of the mobile food vehicle shall hang over a public right-of-way or interfere with clear vision triangles.
6. An outdoor seating area may be designated consisting of portable tables and a seating capacity of eight. Outdoor seating areas shall not be placed within the right-of-way and shall not impede vehicular or pedestrian circulation in site.

(C) *Submittal Requirements.* A private property owner intending to designate their property as a mobile food site shall submit the following:

1. *Mobile Food Site application.*
2. *Site Plan.* Dimensioned site plans shall be 11" x 17" in size and shall denote, at minimum, the following:
 - a. Street, curbs, sidewalks and property lines.
 - b. The zoning classification of the subject site and adjacent sites.
 - c. Existing building footprints with tenant spaces labeled.
 - d. Existing accessory structures and refuse container footprints.
 - e. Parking spaces and drive aisles.
 - f. The general layout and dimensions of the mobile food vehicle pad.
 - g. The location and surface material of all paved areas.
 - h. The on-site storage location of the mobile food vehicle during non-operational hours, if applicable.
 - i. The location of fire hydrants.
 - j. The location of on-site water, generator and/or electric utilities that will serve the mobile food vehicle.
 - k. The location of any designated outdoor seating areas.
 - l. Sufficient details to demonstrate that the locational and general requirements of Section 10.2203(A) and (B) can be satisfied.

3. *Restaurant Map.* A map identifying existing brick and mortar restaurants within a 150-foot radius of the subject property.

(D) *Site Plan Review Committee (SPRC) Approval:* All applications and associated site plans for proposed mobile food sites shall be forwarded to the Site Plan Review Committee for review and approval.

(E) *Annual Approval Required.* Mobile Food Site approval shall be valid for a period of one (1) year. Property owners shall be required to apply for mobile food site approval annually under the provisions of this Ordinance.

Section 10.2204. Mobile Food Courts

Any person intending to create and designate a mobile food court as a principal use on their property shall first obtain mobile food court approval in accordance with the following provisions.

(A) *Special Use Approval Required.* Mobile food courts shall be deemed a principal use of the property and shall require special use approval in accordance with the provisions of **Section 10.201** and the standards of this Ordinance.

(B) *Site Plan Approval Required.* Upon receiving special use approval, the property owner shall obtain site plan approval in accordance with the provisions of **Section 10.514**.

(C) *Locational Requirements.* Mobile food courts shall satisfy the following locational requirements: The property shall be zoned O-1, B-1, B-2, B-3, M-1 or M-2 and shall be located within the boundaries of the Southend Downtown Development Authority (DDA) district.

(D) *General Requirements.* A mobile food court shall satisfy the following general requirements:

1. The mobile food court site plan shall designate a minimum of two (2) and a maximum of eight (8) pads for the operation of mobile food vehicles. All mobile food vehicle pads shall be on a paved surface.
2. Permanent structures shall satisfy the setback, height, and lot coverage requirements contained in *Section 10.400 – Schedule of Regulations*.
3. *Outdoor Seating Areas.* Outdoor seating areas shall be set back a minimum of 40 feet from any property line that abuts a residential zoning district. Outdoor seating areas facing residential districts shall be screened by a minimum 8 foot-high solid obscuring wall.

4. *Landscaping.* The site plan shall satisfy the landscaping and screening requirements contained in *Section 10.510 – Landscaping and Screening.*
5. *Parking.* A minimum of two (2) parking spaces shall be required per each individual mobile food vehicle pad on site. Parking dimensions and design shall satisfy the requirements of *Section 10.505 – Parking Requirements.*
6. *Lighting.* On-site exterior lighting shall satisfy the provisions of *Section 10.512 – Exterior Lighting.*
7. *Restrooms.* Permanent restroom facilities shall be provided within the boundaries of the mobile food court in accordance with the Michigan Plumbing Code.
8. *Water requirements.* Water hookup/access shall be provided for each individual mobile food vehicle pad on site.
9. *Electrical requirements.* Electricity access shall be provided for each individual mobile food vehicle pad on site. Portable generators are prohibited.
10. *Signs.* A master sign plan for the mobile food court shall be submitted for review and approval as part of the site plan approval process. The plan shall provide information relating to permanent signs for the mobile food court, as well as individual signs for each business. Permanent ground and wall signs shall satisfy the standards of *Section 10.511 – Sign Regulations.*
11. External speakers or live entertainment may be permitted up to the close of business and shall not exceed 65 decibels at non-residential property lines and 25 decibels at residential property lines.
12. Alcohol sales shall only be permitted from a permanent structure on-site.

(E) *Submittal Requirements.* A private property owner intending to operate a mobile food court as a principal use shall submit the following:

1. A Special Use Approval application, in accordance with Section 10.201.
2. A Site Plan application, in accordance with the procedures and submittal requirements of Section 10.514. In addition to the requirements of Section 10.514, the site plan shall denote the following:
 - a. The location and orientation of each mobile food vehicle pad and each permanent structure.
 - b. The location of any paving, turf or lawn areas, and any pedestrian areas for use by tenants or the public.
 - c. The location of all fire lanes.
 - d. The location of fire hydrants.
 - e. Lighting Plan.

- f. The location and type of water supply and electrical outlet(s) provided for each mobile food vendor pad.
- g. Signage plan.

Section 10.2205 – Mobile Food Vendor Certificate of Occupancy

A mobile food vendor must obtain a certificate of occupancy for each mobile food site and/or mobile food court in which they intend to operate in accordance with the following provisions.

(A) *Operational Requirements.* Mobile food vendors shall comply with the following operational requirements:

1. Mobile food vendors shall only be permitted to operate from a mobile food site approved in accordance with Section 10.2203 or a mobile food court approved in accordance with Section 10.2204.
2. Mobile food vendors shall not operate at a mobile food site or a mobile food court without first obtaining written approval from the private property owner.
3. Mobile food vehicle placement and operation shall comply with the approved site plan for each mobile food site or mobile food court.
4. Mobile food vendors shall maintain a valid business license issued by the City Clerk, and shall display such license on the mobile food vehicle.
5. Mobile food vendors shall maintain a food service license from the Oakland County Environmental Health Division, and shall display such approval on the mobile food vehicle.
6. During non-operational periods in excess of 24 hours, the mobile food vehicle and associated equipment (i.e. tables and signs) shall either be removed from the mobile food site or moved to a location on-site that is not readily visible from the public right-of-way. The on-site storage location shall be shown on the mobile food site plan. This provision shall not apply to approved mobile food courts.
7. Food preparation shall not occur outside of the mobile food vehicle, except for the use of a grill or smoker directly attached to the mobile food vehicle. Condiments may be placed on a shelf attached to the vehicle.
8. A minimum of one (1) trash receptacle shall be provided and emptied daily. The mobile food vendor shall be responsible for daily disposal of all trash, refuse, and litter. The property and all adjacent streets and sidewalks shall be kept free and clear of refuse generated by the operation of the mobile food vehicle.
9. Sales of alcoholic beverages are prohibited from a mobile food vehicle.

10. Mobile food vehicles may be painted with signage or have permanent signage directly affixed to the vehicle. One (1) sandwich board “A-frame” sign shall be permitted within four (4) feet of the mobile food vehicle. Signage shall not project from the vehicle or be illuminated. Permanent freestanding signage is prohibited.
11. Flashing, blinking or strobe lights are prohibited.
12. External speakers or live entertainment may be permitted up to the close of business and shall not exceed 65 decibels at non-residential property lines and 25 decibels at residential property lines.
13. A mobile food vehicle may utilize an existing electrical connection to the principal use/building on site. An electrical permit shall be required for any modification of the existing electrical system. Portable generators are prohibited at mobile food courts. Utilities shall not be drawn from a public right-of-way.
14. Permanent connections to water and sanitary sewer lines and mains are prohibited.

(B) *Submittal Requirements.* A mobile food vendor intending to obtain a certificate of occupancy shall submit the following:

1. Mobile Food Vendor Certificate of Occupancy application.
2. Written approval from the property owner of the mobile food site or mobile food court to operate on said property.
3. A copy of the approved food license from the Oakland County Environmental Health Division.
4. A copy of the approved Madison Heights business license.
5. A written description of the nature of the proposed use, including the business name, methods of food preparation and cooking, electrical hookup, frequency, duration, and hours of operation.
6. Details of the mobile food vehicle, including the type, dimensions, elevation drawings or photos, and details of any furniture or other physical features associated with the proposed use.
7. A copy of the approved mobile food site plan or mobile food court site plan, marked up to denote the location of trash receptacles, signs, tables, generators, outdoor cooking appliances, and any other associated activity.

(C) *Annual Renewal Required.* Certificates of Occupancy shall be valid for a period of one (1) year after issuance. Certificates of Occupancy may be renewed annually.

(D) *Revocation of Certificate of Occupancy.* An approved mobile food vendor Certificate of Occupancy may be revoked by the Community and Economic Development Director upon a proper showing that the operation of the mobile food vending unit is not in compliance with the approved mobile food site plan or upon a proper showing that the operation of such use has become detrimental to the health, safety and general welfare of the city, residents or surrounding business or property owners.

Section 2. 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 3. 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 4. 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 5. Effective Date.

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

Section 6. 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 May 23, 2022.

Cheryl Rottmann, City Clerk

ZTA 22-01 (Ordinance 2182)

Planning Commission Introduction and Discussion: March 15th, 2022

Planning Commission Public Hearing: April 19th, 2022

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