

Ordinance No. 2128

Zoning Text Amendment 17-01

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, Sections 315, 318, 319, 321, 322, 325, 326, 328, 329, 332, 332A, 401, 508, 512, 514, 1802 and 1805 of the Zoning Ordinance to establish measures and safeguards to provide for the public health, safety and welfare.

The City of Madison Heights ordains:

Section 1. Section 10.315(5) is hereby amended to read as follows:

Section 10.315. Uses permissible on special approval.

- (5) The construction of high-rise buildings may be permitted upon special approval subject to the following conditions:
- a. If the parcel abuts any single-family residential district, up to three (3) stories or forty (40) feet in height may be allowed. Where the parcel abuts any other use district, up to six (6) stories and seventy-five (75) feet in height may be allowed.
 - b. Uses shall be limited to permitted principal or special approval uses in the O-1 District.
 - c. Residential uses shall not be permitted on the first floor.
 - d. Parking shall be provided for all uses in accordance with the provisions of Sections 10.505, 506 and 507.

Section 2. Section 10.318(5) is hereby amended to read as follows:

Section 10.318 Principal uses permitted

- (5) Restaurants primarily devoted to serving food on the premises, which may include take out, drive-through lanes and/or alcoholic beverages, provided that there is no entertainment on the premises. Outdoor seating is

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permitted after site plan approval for restaurants that do not serve alcohol or have entertainment, subject to the requirements of Section 10.319(4). Special approval is required under Section 10.319(4) for outdoor seating at any restaurant that serves alcohol or has entertainment.

Section 3. Section 10.319(4) is hereby amended to read as follows:

Section 10.319. Uses permissible on special approval.

- (4) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, and/or any facility that provides entertainment, subject to the following conditions:
 - a. No external speakers.
 - b. No outdoor entertainment of any type.
 - c. Outdoor seating area(s) shall be at grade and on the side or front of any building which abuts any residential district. If located on the side, the side(s) of the seating area that face adjacent residential districts shall be a minimum 8' high solid obscuring wall. Roof top seating may be permitted only where there is no abutting residential property.
 - d. Outdoor seating areas shall be setback a minimum 40' from any property line that abuts residential district(s). No outdoor seating shall occupy a required setback area.

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Section 4. Section 10.319(7) is hereby amended to read as follows:

Section 10.319. Uses permissible on special approval.

- (7) The construction of high-rise buildings up to three (3) stories and forty (40) feet in height is permitted upon special approval subject to the following conditions:
- a. Where the parcel abuts any single-family residential district, the maximum front yard setback for new structures shall be five (5) feet. All required parking drives and service areas shall be located between the building and adjacent single-family districts. Where additions to existing structures are proposed, existing setbacks may be used for second and third floor additions, provided there are no further expansion(s) of non-conformity.
 - b. Uses shall be limited to permitted principal or special approval uses in the B-1 District.
 - c. Residential uses shall not be permitted on the first floor.
 - d. Parking shall be provided for all uses in accordance with the provisions of Sections 10.505, 506 and 507.

Section 5. Section 10.321(6) is hereby amended to read as follows:

Section 10.321. Principal uses permitted.

- (6) Restaurants primarily devoted to serving food on the premises, which may include take out, drive-through lanes and/or alcoholic beverages, provided that there is no entertainment on the premises. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol or have entertainment, subject to the requirements of Section 10.319(4). Special approval is required under Section 10.319(4) for outdoor seating at any restaurant that serves alcohol or has entertainment.

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Section 6. Section 10.322(1) is hereby amended to read as follows:

Section 10.322. Uses permissible on special approval.

- (1) The construction of high-rise buildings may be permitted upon special approval subject to the following conditions:
 - a. If the parcel abuts any single-family residential district, up to three (3) stories or forty (40) feet in height may be allowed. Where the parcel abuts any other use district, up to six (6) stories and seventy-five (75) feet in height may be allowed.
 - b. Uses shall be limited to permitted principal or special approval uses in the B-2 District.
 - c. Residential uses shall not be permitted on the first floor.
 - d. Parking shall be provided for all uses in accordance with the provisions of Sections 10.505, 506 and 507.

Section 7. Section 10.322(2) is hereby amended to read as follows:

Section 10.322. Uses permissible on special approval.

- (2) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, and/or any facility that provides entertainment, subject to the requirements of 10.319(4).

Section 8. Section 10.325(7) is hereby amended to read as follows:

Section 10.325. Principle uses permitted in B-3 general business districts.

- (7) Restaurants primarily devoted to serving food on the premises, which may include take out, drive-through lanes and/or alcoholic beverages, provided that there is no entertainment on the premises. Outdoor seating is

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permitted after site plan approval for restaurants that do not serve alcohol or have entertainment, subject to the requirements of Section 10.319(4). Special approval is required under Section 10.319(4) for outdoor seating at any restaurant that serves alcohol or has entertainment.

Section 9. Section 10.326(9) is hereby amended to read as follows:

Section 10.326. Uses permissible on special approval.

- (9) The construction of high-rise buildings may be permitted upon special approval subject to the following conditions:
 - a. If the parcel abuts any single-family residential district, up to three (3) stories or forty (40) feet in height may be allowed. Where the parcel abuts any other use district, up to six (6) stories and seventy-five (75) feet in height may be allowed.
 - b. Uses shall be limited to permitted principal or special approval uses in the B-3 District.
 - c. Residential uses shall not be permitted on the first floor.
 - d. Parking shall be provided for all uses in accordance with the provisions of Sections 10.505, 506 and 507.

Section 10. Section 10.326(10) is hereby amended to read as follows:

Section 10.326. Uses permissible on special approval.

- (10) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, and/or any facility that provides entertainment, subject to the requirements of 10.319(4).

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Section 11 Section 10.328(7) is hereby amended to read as follows:

Section 10.328. Principal uses permitted

- (7) Restaurants primarily devoted to serving food on the premises, which may include take out, drive-through lanes and/or alcoholic beverages, provided that there is no entertainment on the premises. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol or have entertainment, subject to the requirements of Section 10.319(4). Special approval is required under Section 10.319(4) for outdoor seating at any restaurant that serves alcohol or has entertainment.

Section 12. Section 10.328(8) is hereby amended to add a new subsection (8) to read as follows:

Section 10.328. Principal uses permitted

- (8) Loft dwelling units are permitted on all M-1 zoned property that is located entirely within the boundaries of the Southend Downtown Development Authority (DDA) in accordance with the following standards:
- a. Loft dwelling units shall have a minimum area of 750 square feet.
 - b. Loft dwelling units shall be permitted only where the building and use is in conformance with the provisions of this ordinance. Where an existing building is nonconforming as to setback(s), loft dwelling units shall be permitted to continue said nonconforming setback(s) vertically for second and third floor additions, provided there are no horizontal or cantilevered extensions of the structure that would increase setback nonconformity.
 - c. Loft dwelling units may be located on the first or second floor. Where loft dwelling units are proposed for the second floor, a third story is allowed to permit two story dwelling units, where the third

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story shall be part of the dwelling unit located directly underneath.

- d. Parking shall provide for a minimum of one (1) space per dwelling unit in addition to any parking requirements for the principal use(s).
- e. Pedestrian entrance doors to loft dwelling units may be located on the front, side or rear of the structure. When located on the front of the structure, each pedestrian access door shall serve not less than two units. Where permitted, exterior stairways shall be architecturally compatible with the principal structure. Architectural or design modifications may be required to insure compatibility of the proposed design with the building and adjacent properties. Building elevations of all sides shall be included with the site plan application.
- f. An exterior patio or balcony is permitted but shall be located on the street side of the structure. No portion of any structure may extend over any public right of way, public alley or public sidewalk.

Section 13. Section 10.329(5) is hereby amended to read as follows:

Section 10.329. Uses permissible on special approval

- (5) Retail or service uses which are harmonious with and have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, building material outlets, lumber yards, new automobile or boat sales and service) or serve the convenience needs of the industrial district. Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, and/or any facility that provides entertainment, subject to the requirements of 10.319(4). Open storage of all building

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materials shall be confined within a six (6) foot masonry wall located entirely within the required rear yard. Open storage of all uses included in the definition of junkyards," used machinery, and the residue or waste products from any manufacturing process shall be expressly prohibited. Approval of any retail or service use under the provisions of this section shall be contingent on a finding that the proposed use is in character with the development of the specific district within which such use is proposed to be located.

Section 14. Section 10.329(7) is hereby amended to read as follows:

Section 10.329. Uses permissible on special approval

- (7) The construction of high-rise buildings up to six (6) stories and seventy-five (75) feet in height is permitted upon special approval subject to the following conditions:
 - a. The parcel shall not abut any residential district.
 - b. Uses shall be limited to permitted principal or special approval uses in the M-1 District.
 - c. Parking shall be provided for all uses in accordance with the provisions of Sections 10.505, 506 and 507.

Section 15. Section 10.332(5) is hereby amended to read as follows:

Section 10.332. Principal uses permitted.

- (5) Restaurants primarily devoted to serving food on the premises, which may include take out, drive-through lanes and/or alcoholic beverages, provided that there is no entertainment on the premises. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol or have entertainment, subject to the requirements of Section 10.319(4). Special approval is required under Section 10.319(4) for outdoor seating at any restaurant that serves alcohol or has entertainment.

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Section 16. Section 10.332A (5) is hereby amended to read as follows:

Section 10.332A. Uses permissible on special approval.

- (5) Retail or service uses which are harmonious with and have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, building material outlets, lumber yards, new automobile or boat sales and service) or serve the convenience needs of the industrial district. Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, and/or any facility that provides entertainment, subject to the requirements of 10.319(4). Open storage of all building materials shall be confined within a six (6) foot masonry wall located entirely within the required rear yard. Approval of any retail or service use under the provisions of this section shall be contingent on a finding that the proposed use is in character with the development of the M-2 Heavy Industrial District.

Section 17. Section 10.401 Note (h) is hereby amended to read as follows:

- (h) See Uses Permissible Upon Special Approval in the O-1, B-1, B-2, B-3 and M-1 Districts for additional building height and story options.

Section 18. Section 10.508(4) is hereby amended to read as follows:

Section 10.508. Uses not otherwise included within a specific use district

- (4) *Home offices & home occupations*

Home offices which are clearly incidental to the principal residential use, and carried on by

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permanent residents of the home, shall be a permitted accessory use in any residential district. Typical home offices include accounting, real estate, insurance, law and other similar offices, excluding any sales and/or service of weapons, guns, ammunition, fireworks or any components thereof and all regulated uses as defined in Section 10.502(A). The following conditions for home offices shall be met.

- (1) The office shall utilize no more than twenty-five (25) percent of the total floor area of any one story of the residential structure therein located.
- (2) Special Use approval shall be required for a home office desiring to employ a non-resident employee. Not more than one non-resident employee shall be permitted.
- (3) All home office activities shall be conducted wholly within the principal residence.
- (4) No structural alterations or additions, or site improvements, which alter the residential character of the structure or property shall be permitted to accommodate a home office.
- (5) There shall be no external evidence of such office. No signage shall be permitted.
- (6) No commodity shall be sold on the premises.
- (7) No home office shall be permitted which is injurious to the general character of the residential district or which creates a

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congested or otherwise hazardous traffic or parking condition.

- (8) No more than two customers or clients shall be permitted to visit the site at any given time. All customer/client visits shall be between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Adequate, conforming off street parking shall be provided for customers or clients.

Home occupations: Home occupations which are clearly incidental to the principal residential use shall be a special approval use in any single-family residential district. A home occupation is traditionally and customarily carried on in the home by permanent residents of the home and is clearly incidental and secondary to the principal residential use. Typical home occupations normally involve services such as hairdressing, clothing alterations and voice or music instruction, excluding any sales and/or service of weapons, guns, ammunition, fireworks or any components thereof and all regulated uses as defined in Section 10.502(A). The following conditions shall apply to home occupations:

- (1) That such home occupation shall be conducted wholly within the dwelling.
- (2) That no article or service shall be sold or offered for sale on the premises except such as is produced within the dwelling or is provided incidental to the service or profession conducted within the dwelling.
- (3) That there shall be no exterior storage or parking of materials or equipment.

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- (4) That no nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time and that no mechanical, electrical, or similar machinery or equipment, other than that used for normal domestic purposes, will be utilized in the home occupation.
- (5) That no hazard of fire, explosion or radioactivity shall exist at any time.
- (6) There shall be no external evidence of such home occupation. No signage shall be permitted.
- (7) No home occupation shall be injurious to the general character of the residential district or create a congested or otherwise hazardous traffic or parking condition.
- (8) As part of the Special Approval, City Council may regulate all aspects of the Home Occupation without limitation, including the hours of operation and the maximum area of the dwelling utilized for the Home Occupation.
- (9) The required site plan shall include a detailed floor plan of the residence showing all existing and proposed use areas.
- (10) "Home Occupation" shall not include "Home Offices" as defined above.

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Section 19. Section 10.512 is hereby amended to read as follows:

Section 10.512. Exterior lighting.

- A. All lighting for parking areas or for the external illumination of buildings and uses shall be of full cut-off design, mounted horizontally, directed downward, away, from and shall be shielded from adjacent residential districts properties and shall not adversely affect driver visibility on adjacent thoroughfares.
- B. Shields shall be full cut-off design on all lighting fixtures to prevent lighting from extending onto adjacent properties and rights of way. Lighting shall not exceed 0.5-foot candles as measured at any residentially-zoned property line and 1-foot candle as measured at any other property line.
- C. Internal lights that are directed outside are prohibited.
- D. Internal or external lights that frame windows are permitted, but shall be limited to accent lighting, where the source of illumination is not visible from the exterior of the building.
- E. Maximum maintained lighting level in any parking lot, canopy area or site lighting shall not exceed 5 foot-candles as measured horizontally at grade.
- F. Maximum height of any parking lot light pole fixture or wall-mounted fixture shall be 20' as measured from grade at base of light pole.
- G. Motion detector or photocell activated fixtures are permitted but shall adhere to all shielding and light intensity standards in this section.
- H. All accent and spot lighting that is directed onto buildings, signs, flags or other focus points shall be shielded from direct view of the source of illumination and shall be directed in such a fashion that the lighting does

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not extend beyond the confines of the focus of the illumination.

- I. Prohibited Lighting: Search lights, lasers, flashing, moving or intermittent lighting is prohibited.
- J. Exemptions: Street lighting and emergency lighting installed and maintained by a public road authority, holiday decorations and lighting that was legally installed prior to the adoption of this section are exempt from the standards in this section.

Section 20. Section 10.514D (2)r is hereby amended to read as follows:

D. Submission Requirements

2. Site Plan Submission / Data Requirements

The following information shall be required on all site plans:

- r. Exterior lighting locations, type of fixtures, and methods of shielding from projecting onto adjoining properties. Details of all lighting fixtures shall be provided. For new parking lots and vehicle canopies a photometric plan shall be provided, demonstrating conformance with Section 10.512.

Section 21. Section 10.1802(8) is hereby amended to read as follows:

Section 10.1802. Principal uses permitted

- (8) Restaurants primarily devoted to serving food on the premises, which may include take out, drive-through lanes and/or alcoholic beverages, provided that there is no entertainment on the premises. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol or have entertainment, subject to the requirements of Section 10.319(4). Special approval is

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required under Section 10.319(4) for outdoor seating at any restaurant that serves alcohol or has entertainment.

Section 22. Section 10.1805(2) is hereby amended to read as follows:

Section 10. 1805 Uses permissible on special approval.

- (2) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, and/or any facility that provides entertainment, subject to the requirements of 10.319(4).

Section 23. 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 24. 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 25. 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 26. Effective Date.

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

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Section 27. 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.

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