

City of Detroit

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TO: City Planning Commission

FROM: Jamie Murphy, Staff
Christopher Gulock, Staff
Kimani Jeffrey, Staff

RE: Zoning Ordinance text amendment, Chapter 50 of the 2019 Detroit City Code—to change the permissibility of motor vehicle sales and repair uses including junkyards and towing service storage yards, to implement a spacing requirement between such uses, to re-define several motor vehicle repair uses, and to update the use regulations for such uses as requested by the Buildings, Safety Engineering, and Environmental Department. (**RECOMMEND APPROVAL**)

DATE: August 2, 2022

BACKGROUND

The City of Detroit has a proliferation of all types of auto-related uses—junkyards, auto repair facilities, used auto sales lots, towing yards, used tire sales, scrap tire processing, etc. Many of these uses are not compliant with zoning regulations, property maintenance standards, or licensing requirements resulting in a blighting influence on the city. Some of the most common violations are cars parked on the sidewalk, inadequate screening of junk vehicles, outdoor tire storage, excessive signage, and overall poor upkeep.

As a result of this issue, Mayor Duggan issued a moratorium in November 2019 on all applications for new or expanded auto-related uses. Temporarily halting the establishment of new uses and the expansion of existing ones would give the city time to review existing policies, develop a compliance strategy, and advance new regulations for these uses. The moratorium has been extended several times and currently expires on September 30, 2022.

Over the past several years, city departments have worked collaboratively to develop proposed changes to the zoning ordinance to better regulate these uses. The Buildings, Safety Engineering, and Environmental Department (BSEED), the Planning & Development Department (PDD), the Law Department, and the CPC staff have participated in this effort. BSEED compiled an initial draft of their recommended changes as they have the most in-depth knowledge of these uses through their permitting, business license, and enforcement responsibilities. CPC staff then composed the subject text amendment incorporating feedback from the other departments.

The currently-ongoing Zone Detroit project (the CPC staff led re-write of the entire zoning ordinance) has identified the regulation of auto-related uses as an area that needs improvement. Feedback from community engagement sessions emphasized the detrimental effect these uses have on quality of life for residents. As a result, the Zoning Analytic (the recommendations on how to fix the zoning ordinance) included a page on the issue and those suggestions influenced this proposed text amendment.

This proposed text amendment has been before the City Planning Commission at three recent meetings:

- May 19 – Introductory presentation
- June 2 – Public Hearing
- June 16 – Update on additional community engagement and requested mapping

LATEST PROPOSED CHANGES (SINCE JUNE 16)

As the Law Department reviewed the proposed text amendment in more detail, they determined that the “Motor vehicle repair” and “Motor vehicle service” uses were insufficiently differentiated and essentially synonymous. After additional discussion among CPC staff, circulating the proposed changes to other involved departments, and further suggestions from Law, the previous four vehicle service/repair categories have been revised to three:

- *Light Duty Vehicle Service Establishment* – an establishment that performs routine maintenance and other limited services for vehicles with gross vehicle weight ratings of up to 10,000 pounds on a typically same-day basis.
- *Light Duty Vehicle Repair Establishment* – an establishment that performs substantial repairs of vehicles with gross vehicle weight ratings of up to 10,000 pounds typically requiring overnight on-site storage of such vehicles.
- *Medium/Heavy Duty Vehicle or Equipment Repair Establishment* – an establishment that performs any type of service or repair of vehicles with gross vehicle weight ratings over 10,000 pounds, regardless of whether such service or repair is typically completed on a same-day basis or requires overnight on-site storage of such vehicles.

As opposed to the previous proposal, each of these categories are distinguishable by weight (light duty vs. medium/heavy duty) and/or duration (whether the vehicles are typically stored overnight). As the 10,000 pound weight threshold aligns with the Federal Highway Administration’s distinction between Light Duty and Medium/Heavy Duty vehicles, the names of the categories have been updated to reflect the same terms. Specific examples of parts and repairs have been eliminated from the definitions because they are difficult to categorize and vehicle technology is changing rapidly. For example, battery replacement is a simple procedure for gas-powered vehicles, but it becomes more involved for hybrid and electric vehicles. These revised categories and definitions are better adapted for the evolving industry.

SUMMARY OF PROPOSED ZONING PROVISIONS

Below is a summary of the provisions of the proposed text amendment divided into four major categories. These proposed changes have not been modified since the previous report and presentation to the Commission except to update the terms and definitions for vehicle service and repair as outlined above.

1. Restrict the Zoning Districts where Auto Uses are allowed

In order to reduce the impact of auto-related uses, the proposed ordinance would reduce the number of zoning districts where each use is allowed. The following tables show the proposed changes by striking through those proposed to be eliminated and underlining proposed additions. “R” signifies that a use is allowed “by-right” (a permit is required to establish the use and conformance with certain standards such as setbacks and parking) and “C” signifies that a use is allowed “conditionally” (a public hearing is required for which residents within 300 feet will be notified, and the use must meet the 15 approval criteria regarding the impact on neighboring uses).

This action of newly prohibiting auto-related uses in certain zoning districts will render those existing uses non-conforming. The status of being a non-conforming use can be onerous for a business as any expansion or intensification is difficult. Also, insurance companies can be hesitant to insure them as there is no guarantee that they could re-establish in the event of damage or destruction. On the positive side, they face less competition as new similar businesses are prohibited. Generally, staff avoids making existing businesses non-conforming, but this extraordinary step seems justified due to the extreme situation.

Specific Land Use	Business						Industrial					Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)						
	B 1	B 2	B 3	B 4	B 5	B 6	M 1	M 2	M 3	M 4	M 5	P D	P 1	P C	P C A	T M	P R	W 1	S D 1	S D 2	S D 3		S D 4	S D 5				
Motor vehicles, used, salesroom or sales lots			<u>C</u>	<u>C</u>		<u>R</u>	<u>R</u>	<u>R</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	L					<u>R</u>									<u>C</u>	<u>SPC</u> ; Sections 50-12-293, 50-12-517

Specific Land Use	Business						Industrial					Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)					
	B 1	B 2	B 3	B 4	B 5	B 6	M 1	M 2	M 3	M 4	M 5	P D	P 1	P C	P C A	T M	P R	W 1	S D 1	S D 2	S D 3		S D 4	S D 5			
<u>Light Duty Vehicle Repair Establishment</u>											<u>C</u>	<u>C</u>	<u>C</u>	<u>L</u>													<u>SPC</u> ; Section 50-12-2xx
<u>Light Duty Vehicle Service Establishment</u>			<u>C</u>				<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>L</u>								<u>C</u>					<u>SPC</u> ; Section 50-12-2xx
<u>Medium/Heavy Duty Vehicle or Equipment Repair Establishment</u>											<u>C</u>	<u>C</u>	<u>L</u>													<u>SPC</u> ; Section 50-12-2xx	
Motor vehicle services, major				<u>C</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>L</u>					<u>C</u>								Section 50-12-294
Motor vehicle services, minor				<u>C</u>	<u>C</u>		<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>L</u>					<u>R</u>				<u>C</u>				Section 50-12-295
Motor vehicles, new, Storage lot accessory to salesroom or sales lots for new motor vehicles					<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>L</u>	<u>C</u>				<u>R</u>						<u>C</u>		Section 50-12-291
Motor vehicles, used, Storage lot accessory to salesroom or sales lots for used motor vehicles					<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>L</u>					<u>C</u>						<u>C</u>		<u>SPC</u> ; Section 50-12-291	

Specific Land Use	Business						Industrial					Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)				
	B 1	B 2	B 3	B 4	B 5	B 6	M 1	M 2	M 3	M 4	M 5	P D	P 1	P C	P C A	T M	P R	W 1	S D 1	S D 2	S D 3		S D 4	S D 5		
Construction equipment, agricultural implements, and other heavy equipment repair or service									C	R	R	R	L													Section 50-12-458
Junkyard											€	C	L							€						SPC; SWFRC; Section 50-12-341
Tires, used; sales and/or service						€	€	€	€	C	C	L					€									SPC; Section 50-12-350
Towing service storage yard							€	€	€	C	C	L					€									SPC; Section 50-12-352
Used vehicle parts sales									€	C	C	L														Section 50-12-356

Specific Land Use	Business						Industrial					Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)				
	B 1	B 2	B 3	B 4	B 5	B 6	M 1	M 2	M 3	M 4	M 5	P D	P 1	P C	P C A	T M	P R	W 1	S D 1	S D 2	S D 3		S D 4	S D 5		
Scrap tire storage, processing, or recycling facility												C	C	L					€							IRC; SPC; Section 50-12-349

2. Add Spacing Requirements between each type of use

To further reduce the impact of auto-related uses, the proposed ordinance would institute spacing requirements for new auto-related uses. The following tables show the proposed changes by striking through those proposed to be eliminated and underlining proposed additions.

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
<u>Light Duty Vehicle Repair Establishment</u>	<u>1,000 radial feet</u>	- Any other vehicle service or repair use: 1,000 radial feet - Zoning lot zoned R1, R2, R3, R4, R5, R6, residential PD: 100 radial feet	<u>Section 50-12-2xx</u>
<u>Light Duty Vehicle Service Establishment</u>	<u>1,000 radial feet</u>	- Any other motor vehicle service or repair use: 1,000 radial feet	<u>Section 50-12-2xx</u>
<u>Medium/Heavy Duty Vehicle or Equipment Repair Establishment</u>	<u>1,000 radial feet</u>	- Any other motor vehicle service or repair use: 1,000 radial feet - Zoning lot zoned R1, R2, R3, R4, R5, R6, residential PD: 100 radial feet	<u>Section 50-12-2xx</u>

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
Motor vehicle, used, salesroom or sales lot	4,000 2,000 <u>radial</u> feet	N/A	Sections 50-12-293, 50-12-517
<u>Motor vehicles, used, Storage lot accessory to salesroom or sales lots for used motor vehicles</u>	N/A	- <u>Residentially zoned area:</u> <u>250 radial feet</u>	<u>Section 50-12-291</u>

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
<u>Junkyard</u>	<u>2,000 radial feet</u>	<ul style="list-style-type: none"> • <u>Zoning lot zoned R1, R2, R3, R4, R5, R6, residential PD: 1,000 radial feet;</u> • <u>Park, playlot, playfield, playground, recreation center, youth activity center: 1,000 radial feet</u> 	<u>Section 50-12-341</u>
<u>Scrap tire storage, processing, or recycling facility</u>	<u>1,000 radial feet</u>	<u>Zoning lot zoned R1, R2, R3, R4, R5, R6, residential PD: 1,000 radial feet</u>	<u>Section 50-12-349</u>
<u>Tires, used; sales and/or service</u>	<u>1,000 radial feet</u>	N/A	<u>Section 50-12-350</u>
<u>Towing service storage yard</u>	<u>1,000 radial feet</u>	N/A	<u>Section 50-12-352</u>

3. Definitions – Clarify, Update, and Add

In addition to amending and/or adding the definitions for the previously-discussed auto repair and service uses, several other definitions are proposed to be amended, specifically:

- To eliminate the use “Construction equipment, agricultural implements, and other heavy equipment repair or service” as this activity will be regulated under the use “Motor vehicle repair over 10,000 pounds and heavy equipment repair”.
- To eliminate the term “truck garages” from the use “Trucking terminals, transfer buildings, truck garages, recreational vehicle storage lots, and open areas for the parking of semi-trailers, buses, and other operable commercial vehicles, not including limousines and taxicabs” as truck garages will be regulated under the new use of “Motor vehicle repair over 10,000 pounds and heavy equipment repair”.
- Add definitions for the previously-undefined terms: “Automobile dismantling or wrecking yard”, “Scrap metal recycling facility”, and “Scrap processing facility”.
- Update the definition of “Used vehicle parts sales” for clarity.

4. Miscellaneous Changes

Several proposed changes in the text amendment are merely clean-up of errors or inconsistencies, such as:

- Correct an inconsistent use of the term “Used auto parts sales” to “Used vehicle parts sales”.
- Eliminate the words “and salvage yards” from Section 50-2-165 as they are redundant.
- To newly prohibit the following uses on Gateway Radial Thoroughfares in all zoning districts: Junkyard, Motor vehicle collision and major repair, Motor vehicle repair, Motor vehicle repair over 10,000 pounds and heavy equipment repair, Motor vehicles, used, salesroom or sales lots, Motor vehicles, used, storage lot accessory to a salesroom or sales

lot for used motor vehicles, Scrap tire storage, processing, or recycling facility, Tires, used: sales and/or service, and Towing service storage yard.

- Add specific regulations for “Used motor vehicle storage lots” that are currently required for “Used motor vehicle sales lots” such as screening, lighting, curb cuts, and paving.
- Add use regulations for the new use “Motor vehicle repair” that are similar to those for other auto repair uses.
- Require “Tire, used: sales and/or service establishments” to maintain a used tire disposal plan and three years of manifests for tires removed from the site.
- Prohibit the outdoor storage of used tires.
- Add “Junkyards” and “Used motor vehicle sales lots” to the uses that nonconforming uses cannot be changed to.
- Clarify the definition of “Recycling center” to exclude metal, vehicle parts, and vehicles.
- Update Appendix A, *Assignment of Specific Use Types to General Use Categories*, to reflect changes proposed by this amendment and maintain internal consistency.

EFFECT ON EXISTING BUSINESSES

These proposed amendments would not apply to existing legal businesses. If an existing business is located in a zoning district where it would no longer be allowed, the use would become non-conforming. The business would be able to continue operating in perpetuity, regardless of ownership unless the use is abandoned at any point. Section 50-15-31 of the zoning ordinance outlines the circumstances under which a use would be considered abandoned. Non-conforming uses can be allowed to expand, if approved by the Board of Zoning Appeals per Section 50-15-26.

Existing legal uses that do not comply with the new spacing requirements would not be considered non-conforming simply because they do not comply with new spacing requirements. Per Section 50-15-24 – Effect of use separation or concentration xstandards:

Any use that was legally established at a time when no special use separation or concentration standards applied, such as those requiring that a use be located at least "x" feet from another such use or that no more than two "xyz" uses be located within 1,000 feet of one another, shall not be deemed nonconforming merely as a result of not complying with such standards. Any enlargement, or expansion, or intensification of such use shall be subject to the separation or use concentration standards that are in effect at the time of the proposed expansion.

Although non-conforming status can be challenging—additional approvals needed to expand, potentially more difficult to obtain insurance, there are also some benefits. It can limit competition since the same type of business is not allowed nearby. Non-conforming uses can be changed to other non-conforming uses in certain circumstances as described in Section 50-15-30. Conforming uses do not have this option.

If this amendment is approved, it would create a large number of non-conformities. Based on data provided by BSEED, CPC staff determined the following:

	Tow yards	Junkyards	Used auto sales
Currently conforming, would remain conforming	8	8	67
Currently conforming, would be newly non-con	2	64	279
Currently non-conforming, would remain non-con	1	23	27

Auto repair and service uses are not included in this analysis because they would need to be first classified according to the new definitions. However, as a glimpse of the possibility, there are currently 628 repair facilities in B4 districts that would become non-conforming unless they are classified as “Light Duty Vehicle Service Establishment” (routine maintenance and limited service on a same-day basis).

NON-CONFORMING VS. NON-COMPLIANT

There was some confusion about the difference between a non-conforming use and a non-compliant use. To clarify, here are the definitions:

- *Non-conforming use* is a use that was legally established but does not appear in the listings of uses permitted by-right or conditionally in the zoning district where they are located (Section 50-16-322 of the zoning ordinance).
- *Non-compliant use* is a use that has failed or refused to obey or follow a rule or regulation that applies to the use (generally accepted definition)

Basically, a non-conforming use does not have to follow rules that were instituted after its establishment—this is often referred to as “grandfathered”. A non-compliant use is not following rules that it is responsible for complying with and is in danger of enforcement action.

PUBLIC HEARING RESULTS

On June 2, 2022, the CPC held a 6:00pm public hearing on the subject text amendment. The public hearing notice was mailed to our city-wide mailing list of 1,500 people who have expressed an interest in zoning amendments. It was also published in the Detroit Legal News on May 18, 2022. The notice was also sent to our email subscriber list of slightly over 4,000.

Nine members of the public spoke—five were generally in support of the amendment due to concerns about auto-related uses on commercial corridors and the effect on pollution, and four were concerned about the effect on existing businesses that provide an essential service to residents and questioned whether businesses had been notified of the proposed changes. No correspondence has been received in support or opposition.

The Planning Commission had a robust discussion about the potential advantages and disadvantages of the proposed changes to the zoning ordinance. Requests were made for staff to produce maps showing the existing uses of each type, the number of existing businesses that would be made non-conforming, and the available areas to establish new auto-related businesses. Staff was also asked to conduct additional public engagement, especially targeting business owners.

Two motions were passed by the CPC:

- One to include three additional sections of the appendix in the proposed amendment to maintain the consistency of the document and also to update the fines as recommended by the Law Department.
- One to carry over the public hearing to the next meeting in order to address the concerns raised and to conduct additional public engagement.

FURTHER PUBLIC ENGAGEMENT

CPC staff presented the proposed amendments at the Department of Neighborhoods virtual DON cast meeting on June 13, 2022. There were approximately 200 people on the call. Ten people spoke, generally in support, and raising additional enforcement issues about boat and RV storage, illegal expansion of auto businesses, and junkyards adjacent to residential areas.

On June 15, 2022, CPC staff held a virtual meeting to educate and engage the public about the proposed amendment. The audience included approximately nine members of the public. Questions were received and answered via the chat function from four participants. One participant spoke with concerns about their existing business and was satisfied to know that their business could continue to operate under the provisions of the proposed ordinance. None specifically indicated support or opposition to the proposed ordinance.

These meetings were publicized in two ways:

- A physical mailing was sent out to 1,548 existing auto-related businesses as identified by BSEED. The flyer is attached to this report for reference.
- An email newsletter was sent to the 4,000+ subscribers on the “Updates from the City Planning Commission” list.

MAPPING OF AUTO-RELATED USES

As requested, CPC staff has used the data provided by BSEED to map the existing auto-related uses and the areas available for new businesses of each type. These maps are provided as an attachment to this report.

CONCLUSION

If approved, these proposed amendments to the zoning ordinance will make it more difficult to establish new auto-related uses in the City of Detroit. Over time, this will hopefully decrease the negative effect of these uses by limiting the number of new locations. However, the updated regulations will not apply to existing businesses. An ordinance to update the licensing regulations for auto-related uses is currently being drafted by the Law Department and will apply to the operation of existing businesses in addition to new businesses.

This amendment proposes to regulate the location of new auto-related uses much more strictly than it is currently. However, these businesses often detract from the appearance and viability of a business or retail strip. In response, this amendment would guide new businesses away from the business strips and closer to the rail corridors where heavier, more abrasive uses have a less deleterious impact on aesthetics and commerce. Additionally, these uses contribute to pollution and moving them further from residential areas would have a positive effect on residents’ quality of life.

Based on the above analysis and consistent with the approval criteria of Section 50-3-49 of the Zoning Ordinance, CPC staff recommends **APPROVAL** of the rezoning request.

Attachment: Public Hearing Notice
Community Engagement Flyer
Auto Uses Mapping Presentation

cc: Antoine Bryant, Director, PDD
Karen Gage, PDD
Greg Moots, PDD
David Bell, Director, BSEED
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