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**TO:** City Planning Commission

**FROM:** Jamie Murphy, City Planner

**RE:** **Sixth General Text Amendment to the Zoning Ordinance, Chapter 50 of the 2019 Detroit City Code proposing a range of issues both substantive and non-substantive changes to policy and practice concerning, but not limited to, the permissibility of uses, dimensional requirements, definitions and procedures as well as needed corrections and clarifications.**

**DATE:** May 13, 2024

On May 16, 2024, the City Planning Commission (CPC) will hold a 7:00 PM public hearing on the proposed text amendment. Please see the attached copy of the public hearing notice showing the summary of the ordinance.

## **BACKGROUND**

Most text amendments to the zoning ordinance are limited or more particular in scope, each dealing with one use or subject such as childcare or crematories. However, since the last major rewrite of the Detroit Zoning Ordinance was codified in 2005, City Planning Commission (CPC) staff has prepared five general text amendments which were more broad-scope to help the Zoning Ordinance catch up with development trends and changing society and to fix shortcomings or oversights that have been identified in the administration of the ordinance. The last such amendment was codified in early 2018.

Staff maintains an ongoing list of potential changes to the zoning ordinance which come from a variety of sources such as specific proposed developments, inconsistencies requiring correction, and requests from other city departments. This proposed amendment represents a selection from that list of potential changes that staff believe are generally not controversial and not major enough to warrant their own text amendment.

This report will describe each of the proposed changes, the reason for its inclusion, and the source of the request (where known). The proposed changes are divided into two categories:

- substantive – policy change such as the allowability of a use or change to regulation
- non-substantive – no policy change, generally correcting inconsistencies in the text

The order of the substantive changes will be consistent with the order in which each appears in the zoning ordinance and the non-substantive changes will be covered at the end.

**A. PLANNED DEVELOPMENTS APPROVAL LAPSE – SECTION 50-3-98**

The zoning ordinance currently specifies that planned developments lapse three years from the effective date of approval if the development has not been completed. As evidenced by several recent projects repeating the process due to a lapse, three years is not generally adequate to complete a development. The amendment proposes two changes:

- Increase the time period from three years to five years
- Make the lapse optional instead of mandatory

Generally, when PD approvals have lapsed, there has not been a desire to revoke the approval. While this change would eliminate automatic lapses in approval, the option would still exist if needed.

**B. ALLOW LOFTS CONDITIONALLY IN R1 AND R2 DISTRICTS – SECTIONS 50-8-20, 50-8-50, 50-12-159**

Lofts are defined as “A dwelling unit in a building originally constructed for other than primarily residential use containing one or more rooms or enclosed floor space arranged for living, eating, sleeping and/or home occupations; such units shall include bathroom and kitchen facilities as required by applicable codes.” Lofts are currently not allowed in the R1 and R2 districts. As a result of this prohibition, when non-residential buildings are located in R1 and R2 districts, they are difficult to repurpose and often require a rezoning. Allowing lofts conditionally would encourage the reuse of existing buildings without expanding non-residential uses in residential areas.

**C. ALLOW LOFTS AND MIXED-USE DEVELOPMENTS BY-RIGHT IN B2, B3, AND B4 DISTRICTS – SECTIONS 50-9-44, 50-9-50, 50-9-74, 50-9-80, 50-9-104, 50-9-110, 50-12-22**

Currently, lofts and mixed residential-commercial developments are permitted conditionally in B2, B3, and B4 districts unless they are located in Traditional Main Street Overlay areas where they are by-right. The Buildings, Safety Engineering, and Environmental Department (BSEED) has communicated that this use is seldom, if ever, denied as a result of the conditional use process. This is usually a sign that a use should be by-right. Also, there is a large amount of vacant commercial land that is not optimal for commercial development due to lot size or configuration and allowing residential development would increase the chance that it could be developed.

An additional proposed change is allowing lofts by-right in Traditional Main Street Overlay areas even when they are not combined with a commercial use.

**D. ALLOW BODY ART FACILITIES CONDITIONALLY IN B2 AND B3 DISTRICTS – SECTIONS 50-9-52, 50-9-82, 50-12-70**

Body art facilities (a.k.a. tattoo parlors) are currently prohibited in the B2 and B3 districts. Although at one time these businesses may have been considered an undesirable use or contributed to a blighting effect, tattoos have become more popular and socially acceptable in recent years. Ordinance 37-17 eliminated the prohibition of this use on Gateway Radial Thoroughfares reflecting greater acceptance of this use.

This proposed change is the result of a specific request from President Pro Tem James Tate who requested it on behalf of a proposal in District 1.

**E. VARIOUS CHANGES TO THE PERMISSIBILITY OF BREWPUBS, MICROBREWERIES, SMALL DISTILLERIES, SMALL WINERY – SECTIONS 50-9-52, 50-9-76, 50-9-82, 50-9-106, 50-9-112, 50-9-136, 50-9-142, 50-9-166, 50-9-172, 50-10-16, 50-10-22, 50-10-46, 50-10-52, 50-10-76, 50-10-82, 50-10-106, 50-10-112, 50-12-62, 50-12-217**

- Allow brewpubs, microbreweries, small distilleries, and small wineries by-right in B2 districts where they are currently prohibited.
- Allow brewpubs, microbreweries, small distilleries, and small wineries by-right in B3 districts where they are currently allowed only in Traditional Main Street Overlay areas conditionally.
- Allow brewpubs, microbreweries, small distilleries, and small wineries by-right in B4, B5, and B6 districts where they are currently conditional except for within the Central Business District where they are allowed by-right.
- Allow brewpubs, microbreweries, small distilleries, and small wineries by-right in M1, M2, M3, and M4 districts where they are currently conditional except for when they are not considered a regulated or controlled use, then they are allowed by-right.

Brewpubs, microbreweries, small distilleries, and small wineries have been regulated somewhat strictly, similar to other alcohol sales uses. However, these uses have not been shown to have the same negative effects as bars and stores that sell alcohol for off-premises consumption. BSEED has noted that these uses are rarely denied or draw complaints as a result of the conditional use process.

When these uses often sell alcohol for off-premises consumption, they are treated as a controlled use similar to a party store or liquor store that sells alcohol to-go. However, brewpubs, microbreweries, small distilleries, and small wineries selling to-go alcohol does not generally create the same effects that are common at general party stores. As a result, this ordinance proposes to strike the provisions for treating brewpubs, microbreweries, small distilleries, and small wineries as controlled uses.

**F. ALLOW MINIATURE GOLF COURSES CONDITIONALLY IN SD1 AND SD2 DISTRICTS – SECTIONS 50-11-242, 50-11-272, 50-12-67, 50-12-125, 50-12-227, 50-12-131, 50-14-56**

Miniature golf courses are currently prohibited in the SD1 and SD2 districts. Generally, outdoor entertainment uses are not permitted in the mixed-use districts as the uses tend to be low density and the districts were envisioned as denser areas. However, there may be some mixed-use districts that are appropriate for small-scale outdoor entertainment, and may be desirable in and support neighborhood areas of activity. This proposed change is the result of a specific request near the intersection of Atkinson Street and Rosa Parks Boulevard which is zoned SD1.

Miniature golf courses are regulated fairly strictly by the zoning ordinance which seems inconsistent with the effects of the use (conditional use in B4, by-right in M1, M2, M3, M4, and TM). Currently a neighborhood petition is required to establish a miniature golf course within 500 feet of residentially-zoned land; this regulation is proposed to be eliminated. Additionally, the parking requirement is proposed to be lowered from two off-street spaces per hole to one space per hole to align with similar recreation/entertainment uses.

The SD1 and SD2 districts have been more utilized since they were significantly updated in 2014, and both districts have been applied in areas or corridors which are desired to be developed with mixed-use. Adding miniature golf courses as a conditional use in the SD1 and SD2 districts would allow for miniature golf course development proposals to be considered by the city where a petitioner would currently be directed to apply for a rezoning to B4 or an Industrial district. CPC staff finds this to be overly restrictive and that requiring SD1 and SD2 district property to rezone may be counterproductive and undesirable given the growing popularity of mixed-use districts. Staff is not concerned that SD1 or SD2 areas could be overrun with miniature golf courses as a result of this change as this is a less-popular modern recreation use compared to the recent growth in pickleball.

**G. GATEWAY RADIAL THOROUGHFARE OVERLAY AREAS – SECTIONS 50-11-361, 50-12-123, 50-12-156, 50-12-163, 50-12-191, 50-12-226, 50-12-296, 50-12-299, 50-12-302, 50-12-304, 50-12-307, 50-12-316, 50-12-320, 50-12-351, 50-12-358, 50-16-221**

The Gateway Radial Thoroughfare (GRT) overlay was originally applied to areas that the Master Plan had proposed to be rezoned from B4 to a Special Development district (SD1 or SD2). As a result, the restrictions only applied to land zoned B4. In recent years, prohibitions on marijuana and auto-related uses in any zoning district have been added to the GRT restrictions. As a result, the definition needs to be amended.

Additionally, because the GRT prohibitions are listed in Article XI, they are not meant to be appealable to the Board of Zoning Appeals (BZA). However, as the GRT prohibitions are often repeated in the use regulations in Article XII (which is appealable to the BZA), those prohibitions become appealable unless specifically stated otherwise. This ordinance proposes to add those statements for several uses including: emergency shelters, pre-release adjustment centers, substance abuse service facilities, go-cart tracks, car washes, commercial parking lots, pawnshops, precious metal and gem dealers, rebound tumbling centers, taxicab dispatch facilities, tool, die, and gauge manufacturing, used goods dealers, and wholesaling, warehousing, storage buildings, or public storage facilities.

**H. PROHIBIT USE OF LARGE ANIMALS IN RESEARCH AND TESTING LABORATORIES IN B5 DISTRICTS – SECTION 50-12-348**

Currently, research and testing laboratories are prohibited from utilizing large animals in B4 districts. This amendment proposes to expand that prohibition to the B5 district. Large animals would continue to be allowed in the B6, M1, M2, M3, M4, M5, and TM districts.

**I. STRIKE PROVISION REGARDING ACCOMODATION OF OVERNIGHT GUESTS AS HOME OCCUPATION – SECTION 50-12-492**

There is currently a prohibition which states: “Use of a dwelling to accommodate paid overnight guests is prohibited as a home occupation; notwithstanding this regulation, public accommodations, including bed and breakfast inns outside the R1 and R2 Districts, are permitted as provided for in Section 50-12-65 of this Code.” This was added as an attempt to prohibit short term rental uses in the R1 and R2 districts, but was determined by the Law Department to be too vague for enforcement. As there is a separate ordinance under development to regulate short term rentals, this amendment proposes to eliminate the current regulation.

**J. CLARIFY HEIGHT BONUS – SECTION 50-13-63**

There is a height bonus allowed for buildings in B3 and B4 districts located on streets wider than 80 feet. The amendment proposes to change the word “street” to “right-of-way” to

clarify that the width of the right-of-way is the determining factor, not the curb-to-curb width of the street.

**K. ALLOW LOADING SPACE FOR RESIDENTIAL USE TO BE LOCATED IN AN ADJACENT ALLEY – SECTION 50-14-111**

The zoning ordinance allows the required loading space for a retail, service, or commercial use to be located in an open, adjacent alley. This ordinance proposes to expand that allowance to residential uses.

**L. ARCHITECTURAL AND SITE DESIGN STANDARDS – SECTIONS 50-14-398, 50-14-414, 50-14-440**

- Clarify that all roof-mounted equipment on residential buildings must be screened.
- Add standards for the use of metal panels on residential buildings such as minimum thickness of 18 gauge and prohibit corrugated metal.
- Allow the Planning and Development Department to permit certain architectural metal panels on a case-by-case basis.
- Add that the Design Review Advisory Committee can approve the use of fiber cement and architectural metal panels in Traditional Main Street Overlay areas.

**M. TRUCK STOP DEFINITION – SECTION 50-16-402**

This proposed change was prompted by an existing business that is receiving violations. They are generally operating as a truck stop by providing parking for semi-trucks and services for drivers; however, they cannot legally change their use to truck stop because the current definition requires that diesel fuel be sold. The proposed amendment expands the definition to include any combination of these uses: dispensing of fuel, minor repair facilities, convenience store, motor vehicle wash, restaurants, overnight parking, overnight or rest-break accommodations, and commercial shower facilities.

**N. NON-SUBSTANTIVE CHANGES**

- Section 50-4-131 – a list is referenced as seven items although there are only five; propose to strike “seven” to eliminate the issue in the future if the number of items changes again.
- Section 50-8-142 – eliminate “business college and commercial trade school” from uses that are allowed conditionally as the use is allowed by-right.
- Sections 50-12-62, 50-12-63, 50-12-69, 50-12-70 – add uses currently permitted in R5 and R6 districts to the use table (restaurants, offices, art gallery, bake shop, animal-grooming shop, ATM, bank, body art facility, printing or engraving, radio, television, household appliance repair, school or studio of dance, gymnastics, music, art, or cooking; all subject to certain restrictions).
- Section 50-12-81 – add “crematory or pet crematory” as allowed in PD districts with legislative approval.
- Sections 50-12-226, 50-12-227, 50-23-307 – strike provision requiring accessory parking for certain uses as all uses are required to provide accessory parking.
- Section 50-12-336 – clarify requirements for food catering establishments in SD2 districts (by-right, no larger than 5,000 square feet, have at least 10% of the floor area as a retail store for the sale of goods produced).
- Section 50-12-348 – eliminate the use regulation regarding research and testing laboratories in SD1 and SD2 districts as the use is not allowed in those districts.

- Section 50-14-49 – correct and simplify misleading title from “Retail, service, and commercial uses located on land zoned SD1 or SD2 or where the use is located within 0.50 miles of a high-frequency transit corridor” to “Retail, service, and commercial uses located in specific areas”.
- Sections 50-14-58, 50-14-60 – move the parking requirement for “new or used motor vehicle sales” from the “Retail sales and service” category to the “Vehicle sales, repair, and service” category. This change was made in the Auto Use ordinance for the use but the parking section was missed.
- Section 50-16-402 – correct year in the definition of “tobacco retail store”, should be 2009 instead of 2099.
- Appendix Letters “G” and “S” – correct “victims” to “survivors” for shelters for survivors of domestic violence. This change was made several years ago in the rest of the zoning ordinance but these sections were overlooked.

During the public hearing staff will provide a full presentation of the amendments and any commentary we have received. The matter will return before the Commission at a future meeting with recommendation for the Commission’s consideration.

Attachments: Public Hearing Notice  
Draft Ordinance

cc: Antoine Bryant, Director, PDD  
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