



MCKENNA

Memorandum on Proposed Uses to Permit

TO: Grosse Pointe Woods Planning Commission
FROM: Brigitte Wolf, AICP
SUBJECT: **Updating Permitted Uses, Zoning Ordinance Amendments**
DATE: February 20, 2023

The following pages include the proposed amendments to the Use Table and additional use standards in the Zoning Ordinance to allow for the following expanded uses with the conditions listed in the following pages:

1. Home Occupations,
2. Mixed Occupancy along Mack Avenue;
3. Year-around Outdoor Cafés/Dining in the public right-of-way;
4. Rooftop Open / Semi-Open Dining.

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50-4.1 Marihuana establishments

Pursuant to section 6.1 of the Michigan Regulation and Taxation of Marihuana Act (the Act), the city elects to completely prohibit all marijuana establishments as defined by the Act, in all zoning districts in the city.

50-4.2 Mixed occupancy

In the R-1 (A through E), R-2, R-4, C.F., C-2 and C districts, in lots abutting Mack Avenue, a mixed occupancy shall be permitted to allow for complementary accessory uses, provided that parking requirements for such mixed occupancy shall comply with Section 50-5.3 Off- street parking requirements.

Uses permitted in the C Commercial district can be permitted as accessory uses in the C-2 or C.F. District along Mack Avenue, so long as the principal use is permitted in the zoning district and the accessory use does not exceed up to 25% of the usable floor area of the building.

Applicants of properties in the C.F. district, or of current tax exempt statuses, should first check with the City Assessor to understand how the proposed accessory use would affect their city taxes.

50-4.3 enclosed storage of boats, recreational vehicles, trailers

In the R-1 (A through E), R-2, R-4, C.F., and C districts, storage of boats, boat trailers, recreational vehicles, mobile homes, campers, travel trailers, house trailers, and noncommercial utility trailers are only permitted if such vehicles or equipment are unoccupied and parked in a fully enclosed garage and comply with [section 50-5.1 Accessory buildings](#). Overnight parking, other than in a fully enclosed garage, of unoccupied boats, boat trailers, recreational vehicles, mobile homes, campers, travel trailers, house trailers, and noncommercial utility trailers are permitted for temporary periods not to exceed 72 hours, provided notification is provided to the public safety department as follows:

- A. The vehicle owner or representative of the vehicles or equipment must apply for and receive a temporary permit from the public safety department by telephone or in person, so that the public safety department has notice of when the 72-hour period begins.
- B. No more than three temporary permits are allowed per vehicle owner per calendar year.
- C. In addition to the three temporary permits allowed for all vehicle owners, owners of recreational vehicles, mobile homes, campers, travel trailers, and house trailers are permitted to load and unload their vehicles or trailers for periods not to exceed 24 hours (“24-hour provisioning period”) provided that at least 48 hours elapse between the loading and unloading of the vehicles or trailers.

50-4.4 Covering of automobiles and other vehicles

In R-1 (A through E) one-family residential districts, any automobile or other vehicle that is fully or partially covered by a tarp, car cover, or similar material, whether licensed or unlicensed, is prohibited, unless parked in a fully enclosed garage.

50-4.32 Motel

Motel units without kitchenette or kitchen shall contain not less than 350 square feet of floor space, and each unit with permitted kitchens or kitchenettes shall contain not less than a total of 450 square feet of floor space in each rental unit.

50-4.33 existing public, governmental and nonprofit uses in the C.f. district

Upon approval of the planning commission, after a public hearing with notice and site plan review as required by this chapter, any of the following existing uses may be expanded by the erection of additions to existing structures or by the erection of additional structures upon properties situated in community facilities districts as described in the zoning map as amended by this chapter and in accordance with the metes and bounds descriptions on file in the office of the division of safety inspection, and upon compliance with the provisions of this chapter. In giving such approval, the planning commission may impose, in addition to other conditions allowable by law, any reasonable restrictions or requirements so as to ensure that the contiguous residential areas will be adequately protected, and also may require the dedication of lands for street and alley purposes which, in the commission's opinion, is necessary to provide adequately for vehicular traffic movement and off-street parking:

- A. Churches and parish homes.
- B. Public, parochial and other private elementary, intermediate or high schools offering courses in general education, not operated for profit.
- C. Nonprofit religious, educational, private, fraternal or philanthropic institutions.
- D. Private noncommercial recreational areas, and institutional or community recreation centers.

50-4.34 Home-Based Business

Home Occupation to be permitted in R-1(A-E) districts, provided that home occupation is clearly secondary to the primary use or dwelling unit for residential purposes, with the following conditions:

- A. No more than two visitors and one employee shall be on site for the purpose of the home occupation business;
- B. There shall be no exterior display or storage of goods on the premise;
- C. All activity related to the home-based business must remain inside the structures on site;
- D. The home occupation shall not exceed 15 percent of the floor area of the primary structure;
- E. Inventory and supplies shall not occupy more than 50 percent of the area of structures permitted to be used as the home occupation;
- F. The owner of the home-based business must be on site for all hours of operation.
- G. The business shall not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. If any violation is not remediated within the time frame set forth in the violation notice, the following action should be taken:
 - a. Violations, without proper remedial action taken, may result in a stop work order, or
 - b. The person subject to the violation shall appear and present evidence in response to the enforcement notice to the Planning Commission. During the hearing, the Building Official or designated representative shall specify the violation(s) that exist, and the remedial action required. The Planning Commission shall then determine whether to revoke the persons ability to operate a home-based business.

50-4.35 Rooftop Dining

Unenclosed or semi-enclosed rooftop dining areas are permitted in the C-Commercial district along Mack Avenue as an accessory use of a restaurant, café, bar, or similar establishment, with the following conditions:

- A. Upon approval, rooftop dining is to be permitted May-November annually.
- B. An outdoor dining application and site plan must be submitted for review by the Planning Commission. The year following approval, the permit must be renewed annually with the Building Department.
- C. The establishment must provide a policy or certificate of insurance covering the area of the outdoor rooftop seating space.
- D. Safety barriers must be added on the perimeter of the dining area and any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Building Official as visually compatible with the existing architectural style and features of the building.
- E. The rooftop dining area must be setback at a minimum of 20 feet from any rear property line if abutting or across an alley from an R-District.
- F. If abutting a R-District, there must be a screening device, of 6 feet, installed at the rear of the building or dining area to protect the privacy of the abutting residential properties.
- G. The additional dining / service area must fulfil the requirements of off-street parking in section 50-5.3.
- H. Umbrellas are not permitted; however, secured canopies of durable material that can withstand strong winds may be used.
- I. Any enclosure with rooftop amenities (including food and beverage service) or canopies for shade, may exceed the height limit of the district by 15 feet.
- J. Outdoor performances and any other form of amplified sound in enclosed rooftop spaces shall cease between 10:00 PM and 7:00 AM when abutting or across the alley from an R-District or noise sensitive area. "Noise-sensitive area" means a residential dwelling, place of worship, school, or a hospital and also means an existing site that is maintained for public recreation for which quiet is a primary consideration in the use of the site.
- K. Amplified sound shall not exceed 71 decibels within the commercial property and no more than 61 decibels at the residential property line.

Proposed Definition added to the Glossary: *Rooftop dining to be permitted as an accessory seasonal use to a principal use such as a restaurant, café, or similar establishment, that offers seating space for socializing or dining that is either in an open-air, semi-open, or enclosed dining area. Unenclosed or Semi-Open refers to a space outlined by a parapet or partial walls but no doors.*

50-6.5 Outdoor Cafe Permit

It shall be unlawful for any person to operate an outdoor cafe on any sidewalk or public right-of-way without a permit as provided by this section. An outdoor cafe is defined as an outdoor dining area located on or adjacent to a sidewalk which abuts a commercial establishment serving food or beverages. Outdoor cafes shall be permitted only within the C and C-2 zoning districts, [and C-F zoned properties along Mack Avenue](#). An outdoor cafe permit shall be a license to use the permitted area and shall not grant any person any property right or interest in the permitted area. The city may require any permittee to restore the cafe area to its original condition.

A. Scope, Procedure And Fee.

1. This section applies to intended uses on sidewalks and those areas adjacent to commercial buildings between the sidewalk and roadway curb. Outdoor dining entirely on private property continues to be regulated under section 50-4.16 Outdoor patio areas for the sale and service of food and beverages.
2. Each permit shall be effective for one year, and must be annually renewed with the approval of the city. Applications in compliance with this section may be approved by the building official. Applications involving a structure [or the addition of tables, chairs, and other outdoor equipment](#) are reviewed by the planning commission for approval of the structure under [section 50-6.1 Site plan review, subsection A](#). Subsequent approvals may be renewed annually by administration provided that the standards and conditions set forth in this section continue to exist.
3. The annual permit fee for an outdoor cafe shall be established by city council resolution.

B. Outdoor Cafe Permit Application. An application for an outdoor cafe permit shall be made to the building official [or city planner](#). The building official will submit the application to the city administrator, the clerk, director of public safety and director of public works for review and comment. The application shall include the following information:

1. Name, address and telephone number of the applicant.
2. Name and address of the business establishment.
3. A drawing (drawn to scale) showing the layout and dimensions of the sidewalk, outdoor cafe area and adjacent private property, proposed location, size and number of tables, chairs, steps, umbrellas, awnings, canopies, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, railings, decorative chains and any other fixture, structure or obstruction either existing or proposed within the outdoor cafe.
4. Photographs, drawings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas, awnings or other fixtures related to the outdoor cafe.
5. If any table, railing, awning or any other fixture is to be temporarily or permanently anchored, such information must be shown on the drawing.
6. Capacity of existing establishment.
7. If alcohol will be served.
8. If the applicant does not own the property, the application shall include written authorization from the property owner.
9. Exterior lighting plans, if any.



- C. Standards And Criteria For Application Review. The following standards and criteria shall be used in reviewing the application:
1. The permitted area shall allow a minimum of **five** feet of sidewalk clearance to allow safe pedestrian movement and four feet clearance from any curb. Use may not create a hazard, obstruct motor vehicles or unduly impede sidewalk use.
 2. Permits shall be issued only to persons who hold a valid business license and who wish to provide tables and chairs on the permitted area abutting such establishment for use by the general public.
 3. Outdoor cafes are restricted to the **street** frontage of the abutting business establishment to which a permit has been issued.
 4. The perimeter around the outdoor cafe area may be delineated using nonpermanent fixtures such as railing, potted plants, decorative chains, or other approved fixtures. The permanent anchoring of tables, chairs, umbrellas, awnings, railings or other fixtures may be approved by the building department provided such anchoring meets all city and county requirements.
 5. Tables, chairs, umbrellas, awnings and any other fixtures shall be of uniform design and shall be made of quality materials and workmanship to ensure the safety and convenience of users and to enhance the visual quality of the urban environment.
 6. Bollards should be consistent in size and appearance throughout the city.
 7. Design, materials and colors must be compatible with the abutting building and otherwise comply with the Code.
 8. The application must meet all other terms and conditions of this section.
- D. Liability and insurance.
1. The permittee agrees to indemnify, defend and hold harmless the city, its officers, agents and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of use of a permit. The permittee shall enter into a written agreement with the city to evidence this indemnification.
 2. The permittee shall acquire and keep in full force and effect, at its own expense, the following insurance requirements for the entire permit period:
 - a. no alcohol permit. Commercial general liability insurance in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. The city must be named as an additional insured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement.
 - b. Alcohol permit. Commercial general liability insurance in the amount of \$2,000,000.00 per occurrence for bodily injury and property damage. The city must be named as an additional insured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement.

1. Purpose & Intent

2. Definitions

3. Zoning Districts

4. Use Standards

5. Site Standards

6. Development Procedures

7. Administration & Enforcement



- E. Conditions of outdoor cafe permit. Outdoor cafes permitted under this section shall be subject to the following conditions:
1. The permit issued shall be personal to the permittee and shall be transferable only with the written approval of the city administrator.
 2. The city may require the temporary removal of outdoor cafes by the permittee when street, sidewalk or utility repairs necessitate such action or when it is necessary to clear or repair sidewalks. The permittee shall be responsible for removing all outdoor cafe fixtures at least two days prior to the date identified in writing by the city. The permittee shall not be entitled to any refund for such removal. The city shall not be responsible for any costs associated with the removal or the return and installation of any outdoor cafe fixtures.
 3. The use shall be specifically limited to the outdoor cafe area shown in the application.
 4. The permittee shall insure that the outdoor cafe does not interfere with or limit the free unobstructed passage of sidewalk users in the approved pedestrian path. In the event the cafe utilizes a portion of the sidewalk, then the seating must be adjacent to the building.
 5. Tables, chairs, umbrellas, awnings and any other fixtures used in connection with an outdoor cafe shall be maintained with a clean and attractive appearance and shall be in good repair at all times.
 6. No tables, chairs or any other fixtures used in connection with an outdoor cafe shall be attached, chained or in any manner affixed to any tree, post or sign.
 7. Enclosures are not permitted in the public right-of-way, including for dining during the colder months. The addition of temporary structures within property lines must undergo appropriate reviews within the Building Department and Planning Commission, if applicable.
 8. No additional outdoor seating authorized herein shall be used for calculating eating requirements pertaining to the location of, applications for, or issuance of a liquor license for any establishment, nor shall the additional seats be used to claim any exemption from any other requirements of any city, county or state codes, ordinances and/or laws.
 9. The opening and closing hours of the outdoor cafe shall not extend beyond the hours of operation for the business establishment holding the outdoor cafe permit, and in any event shall not extend later than 2:00 a.m.
 10. The use shall not unduly impact nearby residential or commercial properties.
 11. The permittee is responsible for repair of any damage to the sidewalk caused by the outdoor cafe.
 12. No signs shall be permitted within the outdoor cafe area.
 13. Permittee shall meet all other city, Wayne County and state regulations, laws or ordinances, and requirements before a permit is issued.
 14. For applications involving alcohol sales: No permit will be issued until LCC approval is provided to the city.
 15. No music, television or similar entertainment is allowed within the outdoor cafe area.
 16. In the event the application involves use of the right-of-way between the sidewalk and the curb, the city shall require improvement of that area by construction of an approved surface such as brick pavers, exposed aggregate, stamped concrete, tiles or other decorative hard surface subject to Wayne County approval. Asphalt and standard concrete are not considered approved surfaces.
 17. Except as otherwise provided in subsection F or receive approval for year-around outdoor café permit, the permittee shall have until November 8th to remove all objects relating to the outdoor



cafe, except any existing decorative hard surface. Equipment and amenities removed must be properly stored within the building or an approved shed on site.

- F. denial, revocation or suspension of permit.
 - 1. The building official may deny, revoke or suspend a permit for any outdoor cafe for any reason and without penalty upon giving 30 days' written notice.
 - 2. The building official may also deny, revoke or suspend a permit immediately and without notice if it is found that:
 - a. Any required business, health, LCC or other permit/license for the outdoor cafe, or the abutting business establishment has expired or been suspended, revoked or canceled.
 - b. The permittee does not have insurance in effect which complies with the minimum amounts and requirements described in this section.
 - c. Conditions have changed regarding pedestrian or vehicular traffic causing congestion or safety concerns. Such decision shall be based upon findings of the building official that the minimum four-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic.
 - d. The permittee has failed to correct violations of the Grosse Pointe Woods City Code, Wayne County requirements, or conditions of the permit within three days of receipt of the city's notice delivered in writing to the permittee.
 - 3. In the event the permittee fails to remove any tables, chairs, awnings or other fixtures or objects related to the outdoor cafe before the date set forth in the city's notice of denial, revocation or suspension, the city may remove such fixtures or objects. The permittee shall be responsible for all expenses incurred by the city for the removal and storage of such fixtures or objects.
 - 4. Violation of this section constitutes a municipal civil infraction in addition to the sanctions available under this section.
- G. Appeals and variances.
 - 1. The decision of the building department to deny, revoke or suspend a permit may be appealed to the zoning board of appeals by an aggrieved party.
 - 2. Variances to the requirements of this section may be granted by the zoning board of appeals if the request meets the criteria for obtaining a variance from the board.

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