



# MEMORANDUM

Report Date: January 30<sup>th</sup>, 2026  
To: City of Madison Heights Zoning Board of Appeals  
Meeting Date: February 5<sup>th</sup>, 2026  
From: Matt Lonnerstater, AICP – City Planner  
Subject: PZBA 26-01  
Zoning Text Interpretation pertaining to “Firearm Retail Sales”

## REQUEST

The applicant, Justin H. Summerville d/b/a/ Harpers Auction House, is seeking an interpretation of Zoning Ordinance regulations pertaining to “Firearm Retail Sales” (Section 7.03.13). In particular, the applicant is seeking a determination from the Zoning Board of Appeals as to whether or not the sale of firearms as a small component of an online auction warehouse falls under the definition of “Firearm Retail Sales”, necessitating full compliance with locational and use-specific standards.

## ZBA AUTHORITY

Per Section 14.05 of the Madison Heights Zoning Ordinance, the Zoning Board of Appeals shall, *“have the power to make an interpretation of the regulations of the Zoning Ordinance where it is alleged that certain regulations are not clear or that they could have more than one meaning. In deciding upon the request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance and the article in which the language in question is contained.”*

The ZBA’s authority to hear and decide on zoning interpretations is derived from the Michigan Zoning Enabling Act (“MZEA”) which authorizes the ZBA to, *“hear and decide questions that arise in the administration of the Zoning Ordinance.”*

## GUIDANCE FOR INTERPRETATIONS

The Michigan Municipal League’s (“MML”) Zoning Board of Appeals Handbook offers the following guidance for reviewing interpretations:

*The ZBA is authorized to issue an official interpretation of the zoning ordinance. Interpretations may be related to either the text of the zoning ordinance or to the boundaries of the zoning map. Unlike legal opinions or recommendations of consultants, an interpretation by the ZBA establishes the meaning of the matter being interpreted and is deemed to be the actual meaning of the ordinance from that point forward, unless the ZBA’s interpretation is appealed to the courts.*

*Several rules of thumb may help in making interpretations.*

- a) *Base map interpretations on the zoning ordinance itself and any relevant historical information. Commonly, these rules are of the “walk like a duck” variety. In other words, if it appears as*

*though the zoning boundary follows a river, it should be assumed to follow the river, or a road right-of-way, or some other physical feature. Where the boundary is unclear, the ZBA should take into account past zoning history (if any) and the potential effect of a determination on surrounding properties.*

- b) Interpret the text of the zoning ordinance based on a thorough reading of the ordinance in order not to have the effect of amending the ordinance.*
- c) Give weight to reasonable practical interpretations by administrative officials if applied consistently over a long period of time.*
- d) Keep records of all interpretations. Once an interpretation is rendered, it is the official position of the community as to that provision. Consistency in decision making is important for the long-term.*
- e) Generally, if equally convincing points are put forth by the zoning administrator and an individual affected by an interpretation, fairness dictates that the person most affected by the interpretation should prevail. In other words, where two interpretations are reasonably equal, the benefit of the doubt should be given to the property owner rather than the zoning administrator.*

*Once an interpretation is made, it is advisable for the planning commission to review the matter to determine whether or not an amendment to the ordinance is needed to further clarify the language (for a text interpretation), or to review the zoning map to determine a specific location of a zoning boundary (for a map interpretation).*

Source: (2015). *Zoning Board of Appeals Handbook*. Michigan Municipal League.

## BACKGROUND AND FACTS

**Proposed Use:** The applicant proposes to operate an online auction company/warehouse at 1100 E. Mandoline, zoned M-1, Light Industrial. Per the application, the business involves selling items such as antiques, collectibles, coins, vehicles and **firearms** via online auction and storing the items in the warehouse. Warehousing is permitted by-right within the M-1 zoning district. However, firearm retail sales is not permitted as a principal use within the M-1 district and only permitted as accessory to an approved indoor shooting range (Special Land Use).

**Interpretation Request:** The applicant is seeking an interpretation as to whether an online auction/warehousing business that, as a component of the business, stores and auctions off firearms falls under the definition of a “firearm retail sales” establishment, thus making it subject to the locational and use-specific standards applicable to firearm retail sales establishments.

**Pertinent Definitions:** Per Section 2.01 of the Zoning Ordinance, effective on May 29<sup>th</sup>, 2024, the following definitions pertain to this case:

*Firearm Retail Sales:* The sale, transfer, lease, offer or advertising for sale or lease of a firearm, which includes a gun, pistol, revolver, rifle or any device designed to be used as a weapon from which is expelled through a barrel a projectile by force of any explosion or other form of combustion.

*Use, Principal:* The main use to which the premises are devoted and the principal; purpose for which the premises exists.

*Use, Accessory: A use subordinate to the main use of a lot and used for purposes clearly incidental to those of the main use.*

**Use-Specific Standards for Firearm Retail Sales:** Firearm retail sales are subject to the following use-specific standards contained in Section 6.03.13:

### 13. FIREARM RETAIL SALES

- A. It shall be unlawful to operate or cause to be operated a firearm retail sales establishment or firearm retail sales as an accessory use in any location in the City except as provided for in this section.
- B. Firearm sales may be permitted in the M-1 and M-2 only as an accessory use to a permitted indoor shooting range, subject to use-specific standards of **Section 7.03(22)** (Indoor Shooting Range).
- C. It shall be unlawful to operate or cause to be operated a firearm retail sales establishment within three hundred (300) feet (measured from the nearest lot line to the nearest lot line on a straight-line basis) of any of the following:
  - (1) A school or childcare facility.
  - (2) A public park.
  - (3) A public community center.
  - (4) Any residential zoning district or any parcel used for residential purposes.
- D. A firearm retail sales establishment lawfully operating is not rendered a nonconforming use by the subsequent location of a place of worship, school, childcare facility, public park, public community center, residential district, or a residential lot within three hundred (300) feet of the firearm retail sales establishment. However, if the firearm retail establishment ceases operation for a period of one-hundred and eighty (180) days or more, regardless of any intent to resume operation, it may not recommence operation in that location except in conformity with this Ordinance.
- E. No firearms or ammunition shall be displayed in window areas visible from a street or sidewalk.

**Permitted Use Table:** Per the Permitted Use Table, Section 3.06 of the Zoning Ordinance, “Firearm Retail Sales” is not a permitted principal use in the M-1, Light Industrial District. However, it is allowed as an “accessory use” to an indoor shooting range as discussed above.

**Portion of Permitted Use Table – Section 3.06**

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Child/Adult Day Care Center and Preschools	S	S	S	S	S	P	P	P	P	P*	S	P					<a href="#">7.03(6)</a>
Commercial Kennels and Boarding Facilities								S	S			S	S	S			<a href="#">7.03(8)</a>
Drive-Through Facilities						A+S	A+S	A	A		A+S	A					<a href="#">7.03(11)</a>
Financial Institutions						P	P	P	P	P*	P	P	P	P			
Firearm Retail Sales								P	P				A	A			<a href="#">7.03(13)</a>

## STAFF COMMENT AND ZBA ACTION

The interpretation request can be simplified via the following question: **Does the proposed sale, transfer, lease, offer or advertising for sale or lease of a single firearm, even as a minor component of an otherwise permitted warehousing use, automatically classify an otherwise permitted use as a firearm retail sales establishment?**

The Zoning Ordinance contains several uses that are defined by whether or not a certain component constitutes a majority of sales of a business or the primary element of the use. For example, a bar/taproom is defined as, “an establishment where the majority of sales come from alcoholic products.” Therefore, a restaurant which sells a small amount of wine would not be classified as a bar. Further, a tobacco/smoke shop is defined as, “a store primarily selling tobacco products and smoking equipment.” Thus, a party store which sells a small amount of cigarettes behind the counter would not be classified as a tobacco/smoke shop.

In other cases, however, such as this one, a distinction based on whether a product constitutes the majority (or primary source) of sales is not made. For example, staff opines that a convenience store that has one single gas pump would still be classified as a “gasoline service station,” even if the sale of gas constitutes less than 1% of all sales. Therefore, the gasoline service station component would be subject to all use-specific standards for gas stations.

The definition for firearm retail sales does not contain a distinction based upon the “majority of sales” or “primary” source of sales. Rather, the definition states that firearm retail sales includes the, “sale, transfer, lease, offer or advertising for sale or lease of **a** firearm [...].” The ZBA shall interpret whether the “a” in the definition implies one single firearm.

Further, the ZBA should consider that the use-specific standards for firearm retail sales states that it shall be unlawful to establish, “[...] *firearm retail sales as an accessory use in any location in the City except as provided for in this section.*” The ZBA should discuss and interpret whether the term “accessory” in this provision is limited to a separate, but subordinate use to the principal use (for example, a stand-alone, firearm sales booth within a separate principal use, (e.g. a permitted gun range)), or more strictly as a minor component of a principal use itself (e.g. the applicant’s online auction warehouse).

The ZBA has the following options for the interpretation *request*:

**Strict interpretation:** Interpret that the definition of “firearm retail sales”, Section 2.01.47, includes the sale, transfer, lease, offer or advertising for sale or lease of one or more firearms. Therefore, any otherwise permitted use that includes firearm retail sales, even as a minor component, shall be deemed a firearm retail sales establishment subject to the use-specific standards of Section 7.03.13, and shall only be permitted in those zoning districts where “firearm retail sales” is permitted.

**Interpretation in favor of Applicant:** Interpret that the definition of “firearm retail sales”, Section 2.01.47, does not include an otherwise permitted use where the sale, transfer, lease, offer or advertising for sale or lease of firearms constitutes less than 50% of overall sales, transfers, or leases. Therefore, any otherwise permitted use which offers the sale, transfer, lease, or advertisement of products shall not be deemed a “firearm retail sales” establishment if firearms constitute less than 50% of overall sales, transfers, or leases; such use shall not be subject to the use-specific standards of Section 7.03.13.

Following the consideration of all testimony, documentary evidence, and matters of record, and following the public hearing, the ZBA shall make a determination on the interpretation unless an extension of time is agreed to by the applicant and the ZBA. Any ZBA motion shall include clear and concise findings of fact relating to the interpretation request.

### **Attachments**

- PZBA 26-01 ZBA application for interpretation.
- Section 2.01.47 – Definition of Firearm Retail Sales
- Section 7.03.13 – Use Specific Standards for Firearm Retail Sales
- Section 3.06 – Permitted Use Table
- Section 14.05 – Zoning Board of Appeals
- Public Hearing Notice

### **TEMPLATE MOTIONS**

**Strict interpretation:** MOVE THAT the Zoning Board of Appeals hereby interprets that the definition of “firearm retail sales”, Section 2.01.47, includes the sale, transfer, lease, offer or advertising for sale or lease of one or more firearms. Therefore, any otherwise permitted use that includes firearm retail sales, even as a minor component, shall be deemed a firearm retail sales establishment subject to the use-specific standards of Section 7.03.13, and shall only be permitted in those zoning districts where “firearm retail sales” is permitted. This motion is based upon the language and implied intent of the use-specific standards for firearm retail sales, Section 7.03.13.

**Interpretation in favor of Applicant:** MOVE THAT the Zoning Board of Appeals hereby interprets that the definition of “firearm retail sales”, Section 2.01.47, does not include an otherwise permitted use where the sale, transfer, lease, offer or advertising for sale or lease of firearms constitutes less than 50% of overall sales, transfers, or leases. Therefore, any otherwise permitted use which offers the sale, transfer, lease, or advertisement of products shall not be deemed a “firearm retail sales” establishment if firearms constitute less than 50% of overall sales, transfers, or leases; such use shall not be subject to the use-specific standards of Section 7.03.13. This motion is based upon the lack of clear intent contained within the definition of Firearm Retail Sales and ambiguity contained within the definition of Section 2.01.47.