

ORDINANCE 31-2014

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195, LAND DEVELOPMENT TO REVISE THE BOROUGH'S CONDITIONAL USE STANDARDS FOR DRIVE-THRU RESTAURANTS

WHEREAS, N.J.S.A. 40:48-1, et seq. authorizes local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry; and

WHEREAS, the Borough of Madison by and through Chapter 195 of the Code of the Borough of Madison regulates land development including the conditional use standards for drive-through restaurants; and

WHEREAS, the Borough Planner has recommended amending Chapter 195 of the Borough Code, the Madison Land Development Ordinance, in regard to Conditional Uses; and

WHEREAS, the Mayor and Council of the Borough of Madison wish to amend Chapter 195 to revise the conditional use requirements for restaurants with drive-through windows; and

WHEREAS, the Mayor and Council of the Borough of Madison have determined that it would be in the best interest of the citizens of the Borough to revise the conditional use standards for restaurants with drive-through windows.

NOW, THEREFORE BE IT ORDAINED by the Governing Body of the Borough of Madison that Chapter 195 of the Code of the Borough of Madison entitled "Land Development" is hereby amended to provide as follows:

Section 1. Chapter 195, Section 33, Subsection (B) of the Code of the Borough of Madison shall be amended to provide as follows:

(5) Restaurants with drive-through windows. No building, structure or premises shall be used as a restaurant with drive-through window facilities unless in conformance with the following conditions:

(a) Such use shall be located on lots with street frontage of at least 100 feet.

(b) The minimum lot area shall be 20,000 square feet.

(c) No transaction window or speaker system shall be located closer than 60 feet to any property line of any residential use or any residential zone line.

(d) Such use shall comply with the standards of Chapter 217, Noise, of the Borough Code.

(e) Any transaction window shall be set back a minimum of forty feet from any property line.

(f) No drive-through window shall face any public right-of-way, nor shall any drive-through window be located within 50 feet of the street right-of-way line from which vehicles using the drive-through window will enter or exit.

(g) There shall be no more than two one-way access driveways serving the site. The minimum distance between the centerlines of such driveways shall be 125 feet. Driveways shall be one-way.

(h) Internal circulation shall be such that stacked vehicles for the drive-through window(s) shall not interfere with general vehicular circulation and parking or pedestrian circulation on the site. Drive-through window stacking lanes shall not be located in parking aisles, nor shall they, in any manner, interfere with vehicles entering or exiting the site or pedestrian circulation.

(i) The perimeter of the site shall be fenced and/or landscaped in a manner that will prevent litter from being blown across property lines and to effectively screen adjacent non-commercial properties on a year-round basis. Such screening shall consist of both a board-on-board fence and dense landscaping along any adjoining non-commercial property lines.

(j) Trash receptacles of an attractive design, consistent with Borough standards and without any advertising or branding, shall be maintained around outdoor eating areas, along pedestrian walkways and at points of egress from the site.

(k) Any outdoor eating areas shall be clearly delineated with curbing, shall be attractively landscaped, and shall be so located that patrons can walk directly from the building to the eating area without crossing a driveway or parking lot. Outdoor seats shall count toward the parking requirements for the establishment.

(l) Odor reduction devices shall be employed to minimize the effect of odor-production from cooking and frying activities. The Applicant shall demonstrate that proposed techniques shall keep the odors on site, to the maximum extent feasible.

(m) Signage shall be limited to one, non-internally illuminated building sign not exceeding 30 square feet and one, non-internally illuminated monument sign, not exceeding six feet in height (including base plus sign area) and 20 square feet in area.

(n) Site lighting shall be the minimum necessary to adequately light the building, outdoor seating area and parking lot with a fixture height (pole plus base) not exceeding 15 feet; only downward facing fixtures are permitted. Timers shall be required to turn off all non-security lighting after business closing.

(o) There shall be no parking in the front yard setback on any front yard. All front yards, with the exception of pedestrian access and other improvements, shall be fully planted with a mix of deciduous and coniferous trees, shrubs and ground cover.

(p) Any awning shall be canvas, with a maximum of six (6) square feet of signage area on awning valances.

(q) No drive-through or fast food restaurant shall be located within 500 feet of any elementary, middle, or high school.

(r) On any lot adjoining within 250 feet of a residential use or district or within 250 feet of the Central Business District, the primary building material shall be masonry (stone or brick), hardie plank, or some combination thereof.

Section 2. All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance, be and the same are hereby repealed to the extent of such inconsistency.

Section 3. Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 4. Pursuant to the Municipal Land Use Law, the Clerk is directed to give notice pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance with the County Planning Board as required by N.J.S.A. 40:55D-16.

Section 5. This Ordinance shall take effect upon final passage and publication as provided by law; however, subsequent to first reading, this Ordinance must be referred to the municipal Planning Board for review, which shall be based on whether the proposal is substantially consistent with the Master Plan. The Planning Board has a period of thirty-five (35) days after referral to report on the proposed Ordinance.

ADOPTED AND APPROVED

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk