

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: LINDSAY BELL, PLANNER
THROUGH: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: SET PUBLIC HEARING FOR TEXT AMENDMENT 18.288
DATE: AUGUST 23, 2019

Attached, please find a number of proposed text amendments to the City of Novi Zoning Ordinance as proposed by staff. City Council's Ordinance Committee recently met and requested that staff review land uses which may be more suited to be considered for a Special Land Use permit. Staff has begun this review, and the suggested changes at this time are primarily in the B-2, Community Business District and the B-3, General Business District. The limited scope of this review is intended to provide a manageable number of changes for ease of review by the Planning Commission and the City Council. Staff has incorporated items deemed necessary, including:

1. Amending the definitions of the Retail Business Service Uses and Retail Business Uses, and adding a definition for Smoke Shops:
 - a. The list of uses provided in the definition of Retail Business Service Uses has been updated to include establishments that provide technology repair, such as cell phone or electronic device repair.
 - b. Minor modifications are proposed to the wording in the definitions to improve clarity.
2. Reclassifying theaters and other places of assembly as Special Land Uses in the B-2 and the B-3 Districts. This addition is intended to allow the Planning Commission an opportunity to review any future theaters or places of assembly under the criteria provided in the ordinance for Special Land Use consideration, offering additional discretion for approval, and allowing for a public hearing.
3. Clarifying the types of retail businesses allowed in the B-3 District. The language proposes reclassifying tattoo parlors as a Special Land Use (from Principal Permitted Uses), and adding Smoke Shops to the list of Special Land Uses in the B-3 District. Again, this would allow the Planning Commission to review these uses under the Special Land Use criteria of the Zoning Ordinance.
4. Adding Massage Establishments as a Special Land Use only in the B-3 District. The Zoning Ordinance does not currently provide clear guidance on the permitted

location of such uses, as defined in the City Code:

Massage establishment means any establishment having a source of income or compensation derived from the practice of massage, and which has a fixed place of business where any person engages in or carries on any of the activities defined as massage. This definition does not include a regularly licensed hospital or dispensary, a place where massage of the face is for cosmetic or beautifying purposes, a place providing massage in the course of prescribed medical treatment by a physician or a health club, as defined herein, where massage is offered as an accessory service. Massage shall be considered an accessory service if the revenue received from the massage activities comprise no more than five (5) per centum of the gross receipts of the business location. A health club that offers massage as an accessory service shall be exempt from the permitting requirements, but is still required to annually submit an income statement to the police chief for review by the finance department to verify that the gross receipts for massage do not exceed five (5) per centum.

This amendment will allow the Planning Commission to hold a public hearing and consider requests for new massage establishments under the Special Land Use criteria of the ordinance prior to City Council's consideration of granting a license for such uses.

5. Allowing the Planning Commission to modify the outdoor recreation requirements for day cares in the use standards for commercial districts.

The Planning Commission is asked to review the proposed amendments and if acceptable, set a public hearing for the proposed text amendment at a later meeting. Following the public hearing, the Planning Commission will be asked to make a recommendation to the City Council on the proposed ordinance amendments. The attached staff version of the proposed amendment is subject to review and changes by City staff and/or the City Attorney's Office. Please contact Lindsay Bell 248.347.0484 or lbell@cityofnovi.org with any questions or concerns.

DRAFT ORDINANCE AMENDMENT

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 18.288

AN ORDINANCE TO AMEND THE CITY OF NOVI ZONING ORDINANCE AT THE FOLLOWING LOCATIONS: ARTICLE 2, DEFINITIONS; ARTICLE 3, SECTION 3.1.11 "B-2 COMMUNITY BUSINESS DISTRICT"; ARTICLE 3, SECTION 3.1.12 "B-3 GENERAL BUSINESS DISTRICT"; ARTICLE 4, SECTION 4.12 "GROUP DAY CARE HOMES, DAY CARE CENTERS, AND ADULT DAY CARE CENTERS"; ARTICLE 4, SECTION 4.27 "RETAIL BUSINESS AND SERVICE ESTABLISHMENTS"; IN ORDER TO RECLASSIFY CERTAIN USES AS SPECIAL LAND USES IN THE B-2 AND B-3 DISTRICTS, CLARIFY ORDINANCE LANGUAGE, AND OTHER ITEMS DEEMED NECESSARY.

THE CITY OF NOVI ORDAINS:

Part I.

That the City of Novi Zoning Ordinance, as amended, Article 2, Definitions, is hereby amended to include the following definitions:

Retail Business Service Uses: Personal service establishments which perform services on the premises, such as, but not limited to: barber shops, beauty shops, copy center, florist shops, locksmiths, home furnishings, photo finishing services, stationers, technology repair, and shoe repair shops.

Retail Business Uses: Generally recognized retail business which supply commodities on the premises, such as, but not limited to: bakeries who's where products are sold only at retail on premises, book stores, ~~news stands~~ newsstands, drug stores, dry cleaning/laundry outlets dealing directly with consumers, food stores, jewelry stores, sporting goods stores, and studios: photography, art, music, and dancing, ~~and sporting goods stores~~.

Smoke Shop: A retail establishment where 50 percent or more of the retail area, defined as wall to wall, is used for the display, promotion, sale or use of products listed below; or an establishment where the sale of products listed below constitute greater than 50 percent of the establishment's merchandise:

- a. Cigarettes, e-cigarettes, vapor, nicotine/alternative nicotine products, cigars and packaged tobacco;
- b. Tobacco smoking and e-cigarette paraphernalia products, including, but not limited to: pipes for smoking tobacco and nicotine products, cigarette holders, pens and electronic devices used for smoking tobacco, vape, and other nicotine or alternative nicotine products, and cigarette rolling papers.

Part II.

That the City of Novi Zoning Ordinance, as amended, Article 3, Zoning Districts, Section 3.1.11, is hereby amended to read as follows:

Section 3.1.11 B-2 Community Business District

A. [unchanged]

B. Principal Permitted Uses

- i. Retail business uses §4.27
- ii. Retail business service uses §4.27
- iii. Business establishments which perform services on the premises
- iv. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer §4.24
- v. Professional services
- vi. Instructional centers
- vii. Service establishments of an office, showroom, or workshop nature §4.27
- viii. Restaurants (sit-down), banquet facilities or other places serving food or beverage §4.27
- ~~ix. Theaters, assembly halls, concert halls, museums, or similar places of assembly §4.27~~
- ix. Business schools and colleges or private schools operated for profit §4.27
- xi. Day care centers, and adult day care centers §4.12.2
- xii. Private clubs, fraternal organizations, and lodge halls
- xiii. Places of worship §4.10
- ~~xii~~iv. Hotels and motels §4.28
- xiv. Professional and medical offices, including laboratories
- xv. Other uses similar to the above uses
- xvii. Accessory structures and uses §4.19, customarily incident to the above permitted uses

C. Special Land Uses

- i. Fueling station §4.29
- ii. Sale of produce and seasonal plant materials outdoors §4.30
- iii. Veterinary hospitals, or clinics §4.31
- ~~iv. Theaters, assembly halls, concert halls, museums, or similar places of assembly §4.27~~

D. [unchanged]

Part III.

That the City of Novi Zoning Ordinance, as amended, Article 3, Zoning Districts, Section 3.1.12, is hereby amended to read as follows:

Section 3.1.12 B-3 General Business District

A. [unchanged]

B. Principal Permitted Uses

- i. Retail businesses ~~uses or service establishments §4.27~~
- ~~ii. Retail business service uses~~
- ~~ii, iii.~~ Dry cleaning establishments, or pick-up stations, dealing directly with the consumer §4.24
- ~~iii, iv.~~ Business establishments which perform services on the premises
- iv. Professional services
- ~~v.~~ Restaurants (sit-down), banquet facilities or other places serving food or beverage §4.27
- ~~vi.~~ Instructional centers
- ~~vi.~~ Retail business or retail business service establishments §4.27
- vii. Professional and medical offices, including laboratories
- viii. Fueling station §4.29
- ~~ix.~~ Sale of produce and seasonal plant materials outdoors §4.30
- ix. Auto wash §4.32

- xi. Bus passenger stations
- xii. New and used car salesroom, showroom, or office
- xiii. Other uses similar to the above uses
- ~~xiv. Tattoo parlors~~
- ~~xiii.xv.~~ Publicly owned and operated parks, parkways and outdoor recreational facilities
- ~~xiv.xvi.~~ Accessory structures and uses §4.19 customarily incident to the above permitted uses
- xvii. Public or private health and fitness facilities and clubs §4.34
- xviii. Microbreweries §4.35
- ~~xvii.xix.~~ Brewpubs §4.35
- ~~xviii.xx.~~ Day care centers, and adult day care centers §4.12.2

C. Special Land Uses

- i. Outdoor space for exclusive sale of new or used automobiles, campers, recreation vehicles, mobile homes or rental of trailers or automobiles §4.36
- ii. Motel §4.28
- iii. Business in the character of a drive-in or open front store §4.37
- iv. Veterinary hospitals or clinics §4.31
- v. Plant materials nursery §4.6
- vi. Public or private indoor and private outdoor recreational facilities §4.38
- vii. Mini-lube or oil change establishments §4.39
- viii. Sale of produce and seasonal plant materials outdoors §4.30
- ix. Restaurant in the character of a fast food carryout drive-in fast food drive through, or fast food sit-down §4.40
- ~~x. Massage Establishments, as defined in Section 20 of the City Code.~~
- ~~xi. Smoke Shops~~
- ~~xii. Tattoo Parlors~~
- ~~xiii. Theaters, assembly halls, concert halls, museums, or similar places of assembly~~

Part IV.

That the City of Novi Zoning Ordinance, as amended, Article 4, Use Standards, Section 4.12, is hereby amended to read as follows:

Section 4.12 Group Day Care Homes, Day Care Centers, and Adult Day Care Centers

1. [unchanged]

2. Day care centers and adult day care centers are a permitted use in the B-2, B-3, OST, TC, TC-1 districts and EXO Overlay district and a special land use in the OS-1, OSC, and PSLR districts, all subject to the following:

- A. In the B-2, B-3, OST, OS-1, OSC, TC, TC-1, PSLR districts and EXO Overlay district:
 - i. Outdoor recreation areas shall be provided, consisting of at least one hundred fifty (150) square feet for each person cared for, unless modified by the Planning Commission based on reasonable justification provided by the applicant, with a minimum total area of three-thousand five-hundred (3,500) square feet. All such outdoor recreation areas shall be fenced with self-closing gates. The recreation area may extend into an exterior side yard up to twenty-five (25) percent of the distance between the building facade and the property line.

- ii. The hours of operation shall be limited to the period between 6 a.m. and 7 p.m. for those facilities abutting residential zoning districts.
- iii. Facilities shall be located either within a permitted office, or commercial structure, or in a freestanding building on a site coordinated with surrounding development (i.e., traffic flow, parking access, drop off areas, architecture and relationship to other buildings).
- iv. Screening and landscaping of outdoor recreation areas, recreation area fences and parking lots shall comply with Section 5.5.
- v. Off-street parking shall comply with Section 5.2.12. and Section 5.3.

B. [unchanged]

3. [unchanged]

Part V.

That the City of Novi Zoning Ordinance, as amended, Article 4, Use Standards, Section 4.27, is hereby amended to read as follows:

4.27 Retail Business or Service Establishments

- 1. In the B-2, ~~B-3~~, TC and TC-1 districts, all retail business or service establishments are permitted as follows:
 - A. Any retail business whose principal activity is the sale of merchandise in an enclosed building.
 - B. Any service establishment of an office, showroom or workshop nature of a decorator, dressmaker, tailor, bridal shop, art gallery, interior designer or similar establishment that requires a retail adjunct.
 - C. Restaurants (sit down), banquet facilities or other places serving food or beverage, except those having the character of a drive-in or having a drive-through window, unless otherwise permitted herein.
 - ~~D. Personal service establishments which perform services on the premises, such as, but not limited to: barber shops, beauty shops, copy center, florist shops, locksmiths, home furnishings, photo finishing services, stationers, technology repair, and shoe repair shops.~~
 - ~~D. Theaters, assembly halls, concert halls, museums or similar places of assembly when conducted completely within enclosed buildings.~~
 - E. Business schools and colleges or private schools operated for profit.
- 2. In the FS district, retail establishments to serve the needs of the highway travelers, including such facilities as, but not limited to, gift shops and restaurants, not including drive-ins are permitted uses.
- ~~3. In the TC and TC-1 districts, the following shall be permitted as follows: Theaters, assembly halls, concert halls, museums or similar places of assembly when conducted completely within enclosed buildings.~~

PART XI.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART XII.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART XIII.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART IX.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ____ DAY OF _____, 2019.

ROBERT J. GATT, MAYOR

CORTNEY HANSON, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent: