

STATE OF MICHIGAN, COUNTY OF OAKLAND

CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-709

TEXT AMENDMENT TO ZONING ORDINANCE  
(Outdoor Seating Areas)

An Ordinance to amend the Zoning Ordinance codified in Chapter 26 of the Charter Township of West Bloomfield Code of Ordinances to amend definitions and regulations regarding restaurants and provide for and regulate outdoor seating areas.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

**Section 1 of Ordinance**

Article I of the Zoning Ordinance shall be amended by deleting the definitions of "Restaurant" and "Carryout Restaurant" from Section 26-2, and by adding the following definitions to Section 26-2 to read as follows:

*Outdoor seating area* means an area of designated size adjacent to the portion of a building being used by a permitted principal or special approval use in a nonresidential zoning district that contains tables, chairs and/or benches.

*Restaurant* means an establishment in a building that prepares food and/or beverages for consumption by the public.

*Restaurant, Carryout* means a restaurant where food is principally served to the public for consumption off the premises by deliveries to or pick up by the customer.

*Restaurant, Sit Down* means a restaurant where food and/or beverage are principally served to the public for consumption on the premises.

*Restaurant, Specialty* means a restaurant principally involving the service of specialty types of food or beverage that are not considered a complete meal for consumption on the premises.

**Section 2 of Ordinance**

Article II of the Zoning Ordinance shall be amended by deleting Section 26-29(11)c.(7)(c).

**Section 3 of Ordinance**

Article II of the Zoning Ordinance shall be amended by adding Section 26-51 to read as follows:

## **Section 26-51 Outdoor seating areas.**

(a) Outdoor seating areas that satisfy the definition of “accessory use” in section 26-2 and all of the standards and requirements in this section shall be allowed on a temporary basis during the period of April 1 to October 31, as an accessory use upon applying for and obtaining a certificate of occupancy and any other related permits for the outdoor seating area as provided in Article VI, with the application to include a plot plan and all information necessary to demonstrate compliance with all standards in this section. Continuing compliance with the standards in this section are conditions of every permit and certificate, which may be immediately revoked for violations.

- (1) Written documentation of the legal right and property owner’s consent to use the outdoor seating area.
- (2) The outdoor seating area must be at grade level and may not occupy an area in excess of 20 percent of the gross floor area of the permitted use.
- (3) The outdoor seating area may not be used for the consumption or service of alcohol.
- (4) No food or beverages may be stored, prepared or sold or offered for sale in the outdoor seating area, with this prohibition applying to vending machines.
- (5) No signs are allowed in the outdoor seating area.
- (6) Any lighting shall be shielded so as to prevent glare to adjacent property, public right-of-ways, and pedestrians.
- (7) No live music, loudspeakers, public address systems or other types of acoustic generators are allowed in or around the outdoor seating area.
- (8) The outdoor seating area must comply with all applicable construction and fire codes and other governmental laws and permit, license or approval requirements under them.
- (9) The outdoor seating area shall be provided with trash receptacles and be regularly maintained in a safe, clean, litter-free and orderly condition.
- (10) The outdoor seating area shall be located at least 50 feet from any residentially zoned property.
- (11) An outdoor seating area may not be located on a sidewalk unless a minimum pathway width of at least five feet, or such greater width as required by the state barrier free design law, is maintained between the outdoor seating area and the edge of the sidewalk and any other structures or objects.
- (12) The hours of the outdoor seating area shall be consistent with the principal use.
- (13) All chairs, benches, tables and other installations that are part of the outdoor seating area shall be of quality, durable material and shall be removed and stored in a legal location and manner during the period from November 1 through March 31.

(14) Outdoor seating areas in a public sidewalk, road right-of-way or other public property owned or controlled by the township may not be permitted under this section unless township approval is first obtained as provided in chapter 20 or other provision of the township code.

(b) Outdoor seating areas that do not satisfy and are not allowed as accessory uses under subsection (a) require site plan review and approval by the Planning Commission, which in addition to other applicable site plan review criteria, standards and conditions, shall include the following:

- (1) The outdoor seating area shall not exceed 20 percent of the gross floor area of the principal business, however, the Planning Commission may require a lesser area based on factors including, but not limited to, safety of customers, aesthetics, and pedestrian and vehicular circulation.
- (2) Sufficient parking is provided to accommodate the outdoor seating area with such parking calculated on the same basis as that of the principal use.
- (3) All required township, county and state permits, licenses and approvals shall be secured prior to any site plan approval or amendment being effective.
- (4) The property owner shall enter into a written maintenance agreement acceptable to the Township Attorney assuring upkeep and maintenance of the outdoor seating area.
- (5) The sale and service of alcoholic beverages shall be in conformance with the rules of the State Liquor Control Commission.
- (6) Outdoor seating areas in a public sidewalk, road right-of-way or other public property owned or controlled by the township may not be permitted under this section unless approval is first obtained as provided in chapter 20 or other provision of the township code.
- (7) Standards in subsection (a) that the Planning Commission does not waive or modify. The standard in subsection (a)(14), which is identical to subsection (6) above, may not be waived or modified by the Planning Commission.

#### **Section 4 of Ordinance**

Article IV, Division 3 of the Zoning Ordinance, Section 26-117, shall be amended to read as follows:

#### **Sec. 26-117. Principal uses permitted.**

In a B-1 local business district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1)-(3) {No Change}

(4) Sit down restaurants and specialty restaurants, but not including drive-in/fast-food or carry-out restaurants;

(5)-(7) {No Change}

### **Section 5 of Ordinance**

Article IV, Division 4 of the Zoning Ordinance shall be amended by deleting Section 26-133(5) and amending Section 26-132(2)(d) to read as follows:

#### **Sec. 26-132. Principal uses permitted.**

In a B-2 community business district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

- (1) {No Change}
- (2) All retail business, service establishments or processing uses as follows:
  - a. -c. {No Change}
  - d. Sit down restaurants and specialty restaurants, but not including drive-in/fast-food or carry-out restaurants;
  - e. -f. {No Change}
- (3)-(4) {No Change}

### **Section 6 of Ordinance**

Article IV, Division 6 of the Zoning Ordinance, Section 26-162(5), Section 26-162(6) and Section 26-163(9) shall be amended to read as follows:

#### **Sec. 26-162. Principal uses permitted.**

In a B-4 restricted general commercial district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

- (1)-(4) {No Change}
- (5) Sit down restaurants and specialty restaurants, but not including alcoholic beverages for consumption on the premises;
- (6) Carryout restaurants. In no instance shall these establishments have the character of a drive-in or drive-through restaurant;
- (7)-(15) {No Change}

### **Section 7 of Ordinance**

Article IV, Division 8 of the Zoning Ordinance, Section 26-198(1) shall be amended to read as follows:

#### **Sec. 26-198. Uses permissible on special approval.**

The following uses may be permitted in the OR-1 office retail districts after review and approval of the site plan by the planning commission and provided that the planning commission finds that the use would not be incompatible with already existing uses in the area or would not interfere with the orderly development of the area and will not be detrimental to the safety or

convenience of vehicular or pedestrian traffic, subject to the conditions herein imposed for each use. As part of the special use review and approval, the planning commission shall establish the minimum number or parking spaces required for the proposed special use tenant and all other uses on the site. The parking determination shall note the portion of the building being used for the special use, the special use occupancy, hours of operation and other factors which the planning commission deems necessary to assure the special use is compatible with the area.

(1) Sit down and specialty restaurants when included in the principal structure, not as a freestanding structure. Accessory uses described in 26-51 may be located adjacent to the office use structure. Carry out and drive-in/fast food restaurants shall not be permitted.

(2) {No Change}

### **Section 8 of Ordinance**

Article IV, Division 9 of the Zoning Ordinance, Section 26-218(3) shall be amended to read as follows:

#### **Sec. 26-218. Uses permitted on special approval.**

The following uses may be permitted in OR-2 restricted office-retail districts after review and approval of the site plan by the township board, after receiving a recommendation from the planning commission and provided that the planning commission and township board find that the use would not be incompatible with already existing uses in the area or would not interfere with the orderly development of the area and will not be detrimental to the safety or convenience of vehicular or pedestrian traffic, subject to the conditions herein imposed for each use:

(1)-(2) {No Change}

(3) Theaters, playhouses, concert halls, specialty restaurants and similar establishments providing professional entertainment;

(4) {No Change}

### **Section 9 of Ordinance**

Article IV, Division 14 of the Zoning Ordinance, Section 26-285.3(e) shall be amended to read as follows:

#### **Sec. 26-285.3. Uses permissible on special approval.**

The following uses may be permitted after review and approval of the site plan by the township board, after receiving a recommendation from the planning commission and provided that the planning commission and township board find that the use would not be incompatible with already existing uses in the area or would not interfere with the orderly development of the area and will not be detrimental to the safety or convenience of vehicular or pedestrian traffic. Some special approval uses may only be appropriate for those parcels, or combination of parcels, having frontage on Haggerty Road. The findings of the planning commission and township board shall be subject to the conditions herein imposed for each use:

(1) Retail uses may be permitted in the I-OP District subject to the special approval process and further subject to the following conditions:

a.-d. {No Change}

e. Drive-up window service for sit down restaurants may be permitted, subject to the following conditions:

1.-13. {No Change}

f.-n. {No Change}

### **Section 10 of Ordinance**

Except as expressly set forth above, the Zoning Ordinance shall remain in full force and effect.

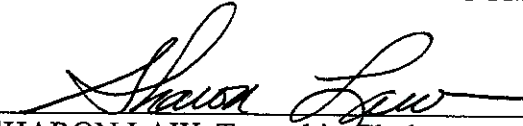
### **Section 11 of Ordinance**

This Ordinance shall take effect upon the expiration of seven (7) days after publication, unless otherwise provided by law, with the added Section 26-51 to thereafter only be effective until March 2, 2008, after which it shall expire absent an Ordinance to extend its effectiveness, with or without amendments.

### **CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by Board of Trustees of the Charter Township of West Bloomfield at a meeting of the Board duly called and held on July 2, 2007

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By:   
SHARON LAW, Township Clerk

INTRODUCED:     **June 18, 2007**  
ADOPTED:        **July 2, 2007**  
PUBLISHED:      **July 8, 2007**