

ORDINANCE NO. 31-2023

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AMENDING CHAPTER 166, LAND USE AND DEVELOPMENT, OF THE CODE OF THE TOWNSHIP OF HANOVER TO PERMIT SPECIFIED DRIVE-THROUGH USES AT CERTAIN INTERSECTIONS BY AMENDING WITHIN THE B-10 ZONE DISTRICT AND BY REGULATING THE NUMBER OF DRIVE-IN USES ON A SINGLE PROPERTY

WHEREAS, the B-10 zone district is located along the Route 10 corridor within the Township; and

WHEREAS, drive-in banks and drive-in pharmacies are currently permitted in the B-10 zone district; and

WHEREAS, gasoline stations, a drive-in use, are permitted as a conditional use at certain intersections in the B-10 zone district; and

WHEREAS, motor vehicle repair or maintenance establishments, including car washes, a drive-in use, are permitted as a conditional use in the B-10 zone district; and

WHEREAS, drive-in restaurants are currently permitted, but only as part of a large-scale development, such as a shopping center, in the B-10 zone district; and

WHEREAS, the Township's Planning Board has recently reviewed these existing policies and has recommended that drive-in restaurants be permitted as a small-scale development in the B-10 zone district in the same locations where gasoline stations are permitted, and not only as part of a large-scale development, with appropriate standards; and

WHEREAS, New Jersey Route 10 is a heavily-traveled roadway and developed with a variety of retail and other commercial and nonresidential uses, suited for drive-in uses; and

WHEREAS, when more than one drive-in use is located on smaller properties, care is needed to ensure that the different drive-in operations do not conflict with each other or with overall site circulation and parking;

NOW, THEREFORE, BE IT ORDAINED by Township Committee of the Township of Hanover, in the County of Morris and State of New Jersey as follows:

Section 1. Subparagraph (1)(a)[2] in Subsection B of Section 166-144, *Signs in the B, B-10, B-10W, D-S, and WC Zone Districts and signs for retail development in the I-B3 and OB-DS Zone Districts*, in Article XX, *Signs*, is hereby amended to read as follows:

[2] A principal identification sign may be freestanding only if both subparagraphs [a] and [b] are complied with, or if subparagraph [c] is complied with:

[a] Unless specifically permitted otherwise, the lot or lots containing the development identified by the sign(s) must have at least 200 feet of frontage upon a public street, the freestanding sign(s) must be located in the front yard abutting said street and the sign(s) must be oriented to be viewed primarily by travelers on said street; and

[b] The sign must be accessory to a development or developments containing at least 25,000 square feet of gross floor area devoted to retail sales and retail service uses.

[c] The sign is accessory to a gasoline station or permitted drive-in use.

Section 2. Paragraph (9) in Subsection B of Section 166-183.2, *Permitted principal uses*, in Article XXXA, *B-10 Highway Business District*, is hereby amended to read as follows:

(9) Food services and drinking places (722). Drive-in restaurants shall only be permitted in the locations specified by § 166-183.8G.

Section 3. Subsection C of Section 166-183.5, *Prohibited uses and use limitations*, in Article XXXA, *B-10 Highway Business District*, is hereby amended to read as follows:

C. Any business conducted outside the confines of a building. This prohibition shall include any outdoor boarding of animals, outdoor animal exercise areas or other similar outdoor areas as part of the provision of veterinary services or pet care services; such services shall only be conducted within the confines of a building (indoors), and shall be subject to the provisions of § 117-5 and all other applicable requirements. Notwithstanding the foregoing, the following uses and activities shall be permitted:

(1) Building material and garden equipment and supplies dealers permitted by this article.

(2) Motor vehicle service stations as regulated in § 166-150A.

(3) Drive-in banks, pharmacies, and, where permitted by § 166-183.8G, drive-in restaurants.

- (4) Outdoor dining permitted as an accessory to a permitted restaurant.
- (5) The display of passenger vehicles for sale accessory to a new car dealer.

Section 4. Section 166-183.6, *Lot, bulk and intensity of use regulations, small scale development*, in Article XXXA, *B-10 Highway Business District*, is hereby amended to read as follows:

§ 166-183.6. Lot, bulk and intensity of use regulations, small scale development.

"Small-scale development" shall be defined for purposes of this section as development on a property having a net lot area less than five acres. "Net lot area" shall be defined as excluding all floodways, wetlands and required transition areas for wetlands. Unless stated otherwise elsewhere by this chapter, the lot, bulk, and intensity of use regulations for small scale development shall be as follows:

- A. Minimum lot area: 20,000 square feet.
- B. Minimum lot width: 100 feet.
- C. Minimum lot depth: 200 feet.
- D. Maximum floor area ratio. The maximum floor area ratio shall be based upon the net lot area, which shall exclude all floodways, wetlands and required transition areas for wetlands. The maximum floor area ratio shall be 30% of the net lot area.
- E. Maximum building coverage. The maximum building coverage shall be based upon the net lot area, which shall exclude all floodways, wetlands and required transition areas for wetlands. The maximum building coverage shall be 20% of the net lot area.
- F. Maximum building height: three stories, 45 feet.
- G. Minimum yard depths. The minimum yard depths shall be as required below. For purposes of determining compliance with yard depths based upon building height, in the case of buildings having varying heights, the yard depth shall be measured to each portion of the building having a different height. Thus, a portion of a building having a lower height will have a different yard requirement than a portion of the same building having a greater height.
 - (1) Minimum front yard depth: 60 feet, or twice the building height, whichever is greater.

- (2) Minimum side yard depth: 20 feet.
- (3) Minimum rear yard depth: 25 feet.
- (4) Minimum yard depth abutting a residential zone district: 50 feet, or twice the building height, whichever is greater.

H. Maximum number of principal buildings: one per lot.

Section 5. Subsection G of Section 166-183.8, *Other requirements*, in Article XXXA, *B-10 Highway Business District*, is hereby amended to read as follows:

G. Drive-in restaurants. Drive-in restaurants shall only be permitted in the locations specified below, and shall be subject to the following regulations, in addition to all other applicable regulations in this article. In case of any conflict between the following requirements and the other regulations in this article, the following requirements shall supersede:

- (1) Drive-in restaurants shall be permitted in any location if part of a large-scale development as defined by § 166-183.7. A drive-in restaurant that is or is part of a small-scale development as defined by § 166-183.6 shall only be permitted when located on a corner lot at one of the following intersections:
 - (a) Route 10 and North or South Jefferson Road.
 - (b) Route 10 and Whippany Road.
 - (c) Route 10 and Troy Hills Road.
 - (d) Route 10 and Algonquin Parkway.
- (2) The minimum lot area for drive-in restaurants developed as or part of a small-scale development shall be 30,000 square feet.
- (3) Driveway access.
 - (a) When developed as part of a large-scale development, no drive-in restaurant shall have direct driveway access to any public street; driveway access to drive-in restaurants shall only be from driveways that are internal to the large-scale development.
 - (b) When developed as or part of a small-scale development, the applicant shall demonstrate, as part of any site plan or site plan exemption application, that the proposed driveway to/from any public street shall provide for safe deceleration and acceleration and turning movements of motor vehicles entering and exiting the site and that the driveway location will not unduly interfere

with or result in unsafe conditions for vehicular or pedestrian movements within the street right-of-way.

- (4) The applicant shall demonstrate, as part of any site plan or site plan exemption application, that the proposed drive-in lanes internal to the development provide adequate queuing or stacking capacity for motor vehicles during peak usage times, taking into account the nature of the use and the timing of peak drive-in use demand, and that vehicles queued in the lanes shall not extend into the street right-of-way or unduly conflict with internal vehicular or pedestrian circulation on the property.

Section 6. Section 166-115, *Multiple principal buildings on the same lot; multiple principal uses within the same building*, in Article XIX, *General Provisions*, is hereby amended by changing the title of the Section to *Multiple principal buildings on the same lot; multiple principal uses within the same building; multiple drive-in or drive-through uses on the same lot*, and by adding a new Subsection G, to read as follows:

- G. Multiple drive-in or drive-through uses on the same lot. Not more than one drive-in and/or drive-through use shall be permitted on the same lot unless the developer, as part of a site plan application, demonstrates that the multiple drive-in or drive-through operations:
 - (1) will not result in unacceptable circulation conflicts or obstructions on the lot;
 - (2) will not reduce the queuing capacity of vehicles in the drive-in or drive-through lanes to unacceptable levels;
 - (3) will not excessively interfere with on-site parking operations, loading or unloading operations, or pedestrian access; and
 - (4) will not result in unacceptable impacts to or safety concerns for vehicular or pedestrian movements within any adjacent street right-of-way.

Section 7. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

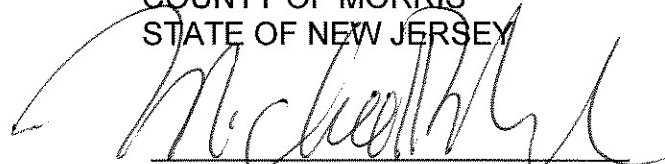
Section 8. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Hanover, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Hanover

are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 9. The Township Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63. Upon the adoption of this Ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

Section 10. This ordinance shall take effect upon publication and in accordance with the law.

TOWNSHIP COMMITTEE
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY


Michael A. Mihalko, Deputy Mayor

ATTEST:



Krista M. DiGiorgio, Township Clerk

Date of Introduction: September 14, 2023
Date of Adoption: October 12, 2023

CERTIFICATION

I, Krista M. DiGiorgio, Township Clerk of the Township of Hanover in the County of Morris and State of New Jersey, do hereby certify the foregoing to be a true copy of an ordinance adopted by the Township Committee of said Township on the 12th day of October, 2023, at a meeting duly convened, of said Body.



Krista M. DiGiorgio, Township Clerk