

## ORDINANCE 35-2017

### ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF THE BOROUGH CODE, LAND DEVELOPMENT ORDINANCE, REGARDING CHANGE IN BUILDING OCCUPANCY AND USE

**WHEREAS**, the Planning Board has recommended amending Chapter 195 of the Borough Code, the Madison Land Development Ordinance, in regard to a change in building occupancy and use; and

**WHEREAS**, the Borough Council has considered the proposed amendment to the Madison Land Development Ordinance and wishes to amend the Code as recommended.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that Chapter 195 of the Borough Code entitled "Madison Land Development Ordinance" shall be amended as follows:

**SECTION 1:** Sections 195-20B(2) and Section 195-32.4F shall have the following added to them:

I. AMEND Section 195-20.B(2). Zoning permit required for change of use, change of occupancy or change of ownership, as follows.

(2) Change in use or occupancy.

**(a)** A change in use or occupancy of a building or land **in all zoning districts except the CBD-1 Zone**, requires site plan approval if one or more of the following criteria is met as determined by the Zoning Officer or his designee:

**[1]** The previous use never received required site plan approval.

**[2]** The proposed use requires more off-street parking than the previous use based upon the parking requirements of this chapter.

**[3]** The proposed use has significantly different hours of operation than the previous use.

**[4]** The proposed use has different loading requirements that require deliveries by vehicles that exceed 30 feet in length.

**[5]** The proposed use involves the storage or handling of chemicals or hazardous substances.

**[6]** The proposed use will generate a greater amount of solid waste requiring one or more dumpsters to be stored outside.

**(b)** In determining whether the above criteria are met, the Zoning Officer or his designee may refer the matter to the Technical Coordinating Committee for review and recommendation.

**(c)** **In the CBD-1 Zone, a change in use or occupancy of a building or land requires site plan approval if one or more of the following criteria is met as determined by the Zoning Officer or his/her designee:**

**[1]** **The proposed use requires more off-street parking than the previous use based upon the parking requirements of this chapter.**

**[2] The proposed use opens before 5am and is proposed to stay open past 11pm.**

**[3] The proposed use requires deliveries by vehicles that exceed 30 feet in length.**

**[4] The proposed use involves the storage or handling of chemicals or hazardous substances.**

**[5] The proposed use will require one or more new dumpsters to be stored outside.**

II. AMEND Section 195-32.4F. CBD-1, CBD-2 Central Business District Zones regulations for off-street parking, as follows.

F. Off-street parking.

(1) Off-street parking requirements in the CBD-1 and CBD-2 Zones shall meet the nonresidential parking requirements set forth in the tables provided in Parking Schedule I in § 195-35, reduced by 20%, as well as the parking requirements for residential use as per the NJRSIS, except that on-street parking shall not be

counted towards the parking requirement. In evaluation of parking requirements, the reviewing board may consider demand management approaches, such as provision of carsharing, ridesharing and shuttles, and may further reduce the required parking by up to 10% based on documentation provided by an applicant outlining proposed demand management techniques.

(2) If there is a change in building occupancy (tenancy), but not use [as defined by § 195-20B(2)], and no physical expansion is proposed, additional parking above what is already provided (on site, off site, or through a shared parking agreement) is not required and no parking variance is necessary.

(3) If there is a change in building occupancy and use (but not physical expansion), then the parking requirements are computed based on the difference between the parking required for the legally existing (prior) use versus the parking required for the new (proposed) use, provided there shall be no reduction in the amount of any existing on-site or designated off-site parking; however, further provided that retail uses with incidental accessory sales of food or beverage items (comprising less than 5% of total establishment revenue or less than 15% of establishment floor area), as well as specialty food establishments of less than 1,500 square feet that do not provide full meals for on-site or off-site consumption, may include up to eight seats for on-site consumption of such items without generating any additional off-street parking requirements in the CBD Zones.

(4) Parking requirements may be addressed in the CBD Zones through a shared parking approach between compatible uses either on or off tract. The off-tract parking shall be located within five blocks or 1,000 feet of the subject property. Documentation shall be provided to support the feasibility of shared parking, including an analysis of the uses sharing the parking and the peak usage periods for each, hours of operation of uses sharing the parking, and lot capacity (number

of spaces) based on existing and proposed usage of the lot. A written contractual arrangement should be secured for a minimum two-year period, with a renewable option between parties.

**(5) There shall be no minimum required off-street parking in the CBD-1 Zone for permitted ground floor non-residential uses with public street frontage or frontage on a municipal alley or municipal parking lot.**

**SECTION 2:** This Ordinance shall take effect as provided by law.

ADOPTED AND APPROVED  
September 11, 2017

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ROBERT H. CONLEY, Mayor

Attest:

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ELIZABETH OSBORNE, Borough Clerk

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