

ORDINANCE NO. 28-2018

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF
THE TOWNSHIP OF HANOVER AMENDING AND SUPPLEMENTING
CHAPTER 166 OF THE CODE OF THE TOWNSHIP,
ENTITLED LAND USE AND DEVELOPMENT LEGISLATION,
BY AMENDING THE REGULATIONS FOR THE B-10, WC, D-S, OB-DS
AND I-B3 ZONE DISTRICTS IN ORDER TO PERMIT AND REGULATE
DRIVE-IN RESTAURANTS

WHEREAS, the Township's zoning regulations currently permit and regulate restaurant uses in certain zone districts; and

WHEREAS, the zoning regulations currently do not permit drive-in restaurants due to various concerns with traffic safety and signage; however, the Planning Board has recommended that the regulations be amended to permit, in certain circumstances, drive-in restaurants in larger scale retail developments, with appropriate regulations that address such concerns.

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

Section 1. Subsection I. of Section 166-183.2., *Permitted principal uses*, in Article XXXA, B-10 Highway Business District, is amended to read as follows:

- I. Food services and drinking places (722). Drive-in restaurants shall only be permitted as part of large scale development as defined by §166-183.7.

Section 2. Paragraph (3) of Subsection C. of Section 166-183.5., *Prohibited uses and use limitations*, in Article XXXA, B-10 Highway Business District, is amended to read as follows:

- (3) Drive-in banks, pharmacies and, only in the case of large scale development as defined by §166-183.7., drive-in restaurants.

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

- H. The use of any noisemaking devices, such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices, so situated as to be heard outside any building; provided, however, that permitted drive-through establishments shall be permitted to use such microphones and speakers that are minimally necessary for the functioning of the drive-through operation, and further provided that the Planning Board, as part of any site plan approval, may permit limited outdoor music and/or entertainment accessory to outdoor dining within the development. In any case where noisemaking devices, music and/or entertainment is proposed, the same shall be permitted only if the developer demonstrates, as part of any site plan application, that such activity will not interfere with the

reasonable use of other businesses or other establishments within the development or on adjacent or nearby properties.

Section 4. Section 166-183.8., *Other requirements*, in Article XXXA, B-10 Highway Business District, is amended by adding and inserting a new Subsection G., to read as follows:

- G. Drive-in restaurants. Drive-in restaurants, where permitted, shall be subject to the following regulations, in addition to all other applicable regulations in this Article:
- (1) No drive-in restaurant shall have direct driveway access to any public street; driveway access for to drive-in restaurants shall only be from driveways that are internal to the large scale development.
 - (2) Drive-in restaurants shall be subject to the same sign regulations as other retail uses in the district.

Section 5. Subsection F. of Section 166-186.13., *Permitted principal uses*, in Article XXXIC, *WC Whippany Center District*, is amended to read as follows:

- F. Eating and drinking establishments. Drive-in restaurants shall only be permitted as part of a planned commercial development as permitted and regulated by this Article.

Section 6. Subsection B. of Section 166-186.16., *Prohibited uses*, in Article XXXIC, *WC Whippany Center District*, is amended to read as follows:

- B. The display of goods for sale outside the confines of a building and any business conducted outside the confines of a building, except for drive-in banks, drive-in pharmacies, drive-in restaurants, and outdoor dining as permitted in this Article.

Section 7. Subsection K. of Section 166-186.18., *Development standards for planned commercial development*, in Article XXXIC, *WC Whippany Center District*, is amended to read as follows:

- (1) No establishment shall be permitted to use any noisemaking devices, such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices, so situated as to be heard outside any building; provided that permitted drive-through establishments shall be permitted to use such microphones and speakers that are minimally necessary for the functioning of the drive-through operation, and further provided that the Planning Board, as part of any site plan approval, may permit limited outdoor music and/or entertainment accessory to outdoor dining within the development. In any case where noisemaking devices, music and/or entertainment is proposed, the same shall be permitted only if the developer demonstrates, as part of any site plan application, that such activity will not interfere with the reasonable use of other businesses, dwellings or other establishments within the development or on adjacent or nearby properties.

Section 8. Subsection E. of Section 166-187., *Permitted principal uses*, in Article XXXII, *D-S Designed Shopping Center District*, is amended to read as follows:

- E. Eating and drinking establishments, such as but not limited to restaurants and bars. Drive-in restaurants shall only be permitted as part of designed shopping center as defined by this chapter and as regulated by this Article.

Section 9. Subsection D. of Section 166-188., *Prohibited uses*, in Article XXXII, *D-S Designed Shopping Center District*, is amended to read as follows:

- D. More than one principal building on a lot unless attached as regulated herein, except that permitted drive-in uses may be located in a separate principal building or buildings from the main shopping center building, and more than one principal building utilized as a community center as permitted and regulated by § 166-150I is permitted on a lot, and further provided that this prohibition shall not apply to kiosks or pump canopies for gasoline stations permitted by §166-150A. For the purpose of administering the above prohibition, two or more buildings that are connected to one another shall not be construed as being attached and an integral part of a single building unless they share a common partition wall for a distance that is at least equal to 1/3 the depth of the building having the shallower depth; provided, however, that no such distance shall be less than 30 feet. The depth of a building shall be measured as the mean distance from the front wall to the rear wall of said building.

Section 10. Subsection B. of Section 166-189., *Required conditions*, in Article XXXII, *D-S Designed Shopping Center District*, is amended to read as follows:

- B. There shall be a front yard of not less than 100 feet. Off-street parking is permitted in the front yard, provided that said parking or access service aisles or driveways shall not be permitted within 25 feet of:
- (1) The front property line.
 - (2) The front of any building; provided, however, that permitted drive-in uses shall be exempt from this restriction.
 - (3) The side property line in the front yard.

Section 11. Subsection E. of Section 166-189., *Required conditions*, in Article XXXII, *D-S Designed Shopping Center District*, is amended to read as follows:

- E. The thirty-foot paved vehicular traffic area or drives nearest a designed shopping center building are designated as fire zones, and no parking shall be permitted therein; provided, however, that permitted drive-in uses shall be exempt from this restriction.

Section 12. Subsection L. of Section 166-189., *Required conditions*, in Article XXXII, *D-S Designed Shopping Center District*, is amended to read as follows:

- L. No store or shop in the center shall use any noisemaking devices, such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices, so situated as to be heard outside any building in the center; provided, however, that permitted drive-through establishments shall be permitted, as part of any site plan approval, to use such microphones and speakers that are minimally necessary for the functioning of the drive-through operation. In any case where noisemaking devices are proposed, the same shall be permitted only if the

developer demonstrates, as part of any site plan application, that such activity will not interfere with the reasonable use of other businesses or other establishments within the development or on adjacent or nearby properties. No smoke, fumes or objectionable odors shall be emitted from any building. The display of merchandise placed on the exterior premises of any building is prohibited.

Section 13. Paragraph (5)(e) of Subsection A. of Section 166-193.1., *Permitted principal, accessory and conditional uses*, in Article XXXIII A, *OB-DS Office Building — Designed Shopping Center District*, is hereby amended to read as follows:

- (e) Eating and drinking establishments, such as but not limited to restaurants and bars. Drive-in restaurants shall only be permitted as part of designed shopping center as defined by this chapter and as regulated by this Article.

Section 14. Paragraph (7) of Subsection B. of Section 166-193.1., *Permitted principal, accessory and conditional uses*, in Article XXXIII A, *OB-DS Office Building — Designed Shopping Center District*, is hereby amended to read as follows:

- (7) Drive-in facilities accessory to a bank, pharmacy or restaurant.

Section 15. Section 166-193.2., *Prohibited uses*, in Article XXXIII A, *OB-DS Office Building — Designed Shopping Center District*, is hereby amended to read as follows:

§ 166-193.2. Prohibited uses.

Any principal use not specifically permitted herein or permitted by other applicable law shall be prohibited in the OB-DS Zone District. Uses specifically prohibited shall include the following:

- A. (Deleted and Intentionally left blank)
- B. The display of goods for sale outside the confines of a building and any business conducted outside the confines of a building, except for the operation of drive-in ordering and pickup operations for permitted drive-in uses, and except as specifically permitted herein.
- C. (Deleted and Intentionally left blank)
- D. Storage yards, except as specifically permitted herein.
- E. The sale or rental of motor vehicles, mobile homes, trailers and campers; provided, however, that such sale or rental shall be permitted when accessory to a permitted home improvement store, hardware store or garden center.
- F. Fuel oil dealers.

Section 16. Section 166-193.4., *Other requirements*, in Article XXXIII A, *OB-DS Office Building — Designed Shopping Center District*, is hereby amended by adding and inserting a new Subsection G., to read as follows:

- G. Drive-in restaurants. Drive-in restaurants, where permitted, shall be subject to the following regulations, in addition to all other applicable regulations in this Article:
 - (1) No drive-in restaurant shall have direct driveway access to any public street; driveway access for to drive-in restaurants shall only be from driveways that are internal to the designed shopping center development.

- (2) Drive-in restaurants shall be subject to the same sign regulations as other retail uses in the district.

Section 17. Subsection H. of Section 166-203.6., *Permitted principal uses*, in Article XXXVIB, *I-B3 Industrial and Business District*, is amended to read as follows:

- H. Eating and drinking establishments, such as but not limited to restaurants and bars. Drive-in restaurants shall only be permitted as part of a large scale retail development containing at least 75,000 square feet of floor area as permitted and regulated by this Article.

Section 18. Subsection F. of Section 166-203.7., *Permitted accessory uses*, in Article XXXVIB, *I-B3 Industrial and Business District*, is amended to read as follows:

- F. Drive-in facilities accessory to a bank, pharmacy or restaurant as permitted and regulated herein.

Section 19. Section 166-203.8., *Prohibited uses*, in Article XXXVIB, *I-B3 Industrial and Business District*, is amended to read as follows:

§ 166-203.8. Prohibited uses.

Uses prohibited in the I-B3 Zone District shall include the following:

- A. Any principal use not specifically permitted herein or permitted by other applicable law.
- B. Any use prohibited in all zone districts of the Township of Hanover.
- C. (Deleted and Intentionally left blank)
- D. The display of goods for sale outside the confines of a building and any business conducted outside the confines of a building, except for the operation of drive-in ordering and pickup operations for permitted drive-in uses, and except as specifically permitted herein.
- E. (Deleted and Intentionally left blank)
- F. Storage yards, except as specifically permitted herein.
- G. The sale or rental of motor vehicles, mobile homes, trailers and campers; provided, however, that such sale or rental shall be permitted when accessory to a permitted home improvement store, hardware store or garden center.
- H. Fuel oil dealers.
- I. Residential construction or conversion except as specifically permitted in the AH-1 Overlay Zone District.
- J. Mixed-use development containing both: a) industrial, research laboratories, self-service storage facilities and/or conference centers; and b) retail sales, banks, personal services, rental and leasing establishments and/or eating and drinking establishments.

Section 20. Subsection D. of Section 166-203.10., *Other requirements*, in Article XXXVIB, *I-B3 Industrial and Business District*, is amended to read as follows:

- D. Outdoor sales and storage accessory to retail use. Outdoor sales and storage areas accessory to retail use, whether covered by a roof or uncovered, are permitted when delineated on a plan as approved by the Planning Board. Such areas shall comply with the following:
- (1) Such areas, except for permitted drive-in operations, shall be limited to no more than 20% of the gross floor area of the use to which the area is accessory.
 - (2) Such areas, except for permitted drive-in operations, shall be construed to be floor area for purposes of determining the required number of parking and loading spaces.
 - (3) Such areas shall not impede pedestrian, customer, or vehicular circulation, and shall be designed to discourage inappropriate or unsafe circulation movements.
 - (4) The applicant for any such areas shall be required to demonstrate that such areas shall be properly contained so as to avoid unauthorized enlargement of such areas and to avoid litter or windblown or waterborne debris.
 - (5) The applicant for any such areas shall be required to demonstrate that such areas will not interfere with the reasonable use of other businesses within the development or on adjacent properties.
 - (6) The applicant for any such areas shall be required to demonstrate that such areas will not be prominently visible from nearby residential areas and will not be a distraction to passing travelers or prominently visible from any public street, provided that permitted drive-in operations may be visible from public streets.

Section 21. Section 166-203.10., *Other requirements*, in Article XXXVIB, *I-B3 Industrial and Business District*, is amended by adding and inserting a new Subsection F., to read as follows:

- F. Drive-in restaurants. Drive-in restaurants, where permitted, shall be subject to the following regulations, in addition to all other applicable regulations in this Article:
- (1) No drive-in restaurant shall have direct driveway access to any public street; driveway access for to drive-in restaurants shall only be from driveways that are internal to the large scale retail development.
 - (2) Drive-in restaurants shall be subject to the same sign regulations as other retail uses in the district.

Section 22. In case, for any reason, any section or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this Ordinance, except so far as the section or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 23. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

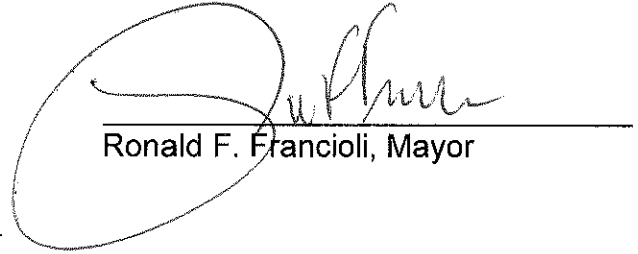
Section 24. This ordinance shall take effect in accordance with the law.

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

ATTEST:



Joseph A. Giorgio, Township Clerk

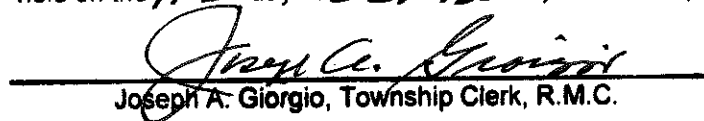


Ronald F. Francioli, Mayor

DATE OF INTRODUCTION: September 13, 2018

DATE OF ADOPTION: October 11, 2018

I hereby certify the foregoing to be a true copy of a
Resolution/Ordinance adopted by the Township Committee
of the Township of Hanover at a **Regular/Special Meeting**
held on the *11th* day of **OCTOBER, 2018**,



Joseph A. Giorgio, Township Clerk, R.M.C.