

Ordinance No. 2167
City of Madison Heights,
Oakland County, Michigan
Zoning Text Amendment 21-03

An ordinance to amend Ordinance 571, being an ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Appendix A, to amend section 10.504. Accessory Buildings to add standards for regulating the number, location, and height of flagpoles on private properties for all districts to assure appropriate safety concerns are addressed and observed. This amendment also proposes to add standards to regulate accessory structures including accessory buildings, utility structures and swimming pools.

The City of Madison Heights ordains:

Section 1. **Sec. 10.504. Accessory Buildings is hereby amended to read as follows**

Sec. 10.504. Accessory Buildings, Structures, and Uses.

- (1) **Accessory Buildings and Structures.** Accessory buildings and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:
- a. **Use.** Accessory buildings and uses are permitted only in connection with, incidental to and on the same lot with, a principal building, structure or use which is permitted in the particular zoning district. No accessory building, structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. A detached accessory building can be used for parking or storage of motor vehicles, but not for commercial servicing or repair.
 - b. **Permit.** Any accessory building greater than two hundred (200) square feet in residential zoned districts and one hundred twenty (120) square feet in commercial zoned districts shall require a building permit. All accessory buildings in non-residential districts also require a site plan, unless otherwise determined by the Building Official.
 - c. **Location.** All detached accessory buildings are only permitted in rear yard subject to setbacks listed in this section. In case of corner lots, the building official may permit detached garages for parking cars in the side yard in single family residential districts.
 - d. **Height.** All detached accessory building in all districts with a pitched roof shall not exceed one story or 15 feet with a maximum ceiling height of 10 feet.
 - e. All detached accessory building in all districts with a flat roof shall not exceed one story or 10 feet.
 - f. All detached accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts subject to approval of the site plan review committee. The applicant shall submit supporting document justifying the reason for additional heights. Such structures shall also comply with building material requirements that apply to a principal structure in such districts.
 - g. **Lot Coverage**—The combined floor area of all accessory buildings on a lot or parcel shall not exceed 40 percent of the required rear yard. All attached accessory buildings shall be

Official. The Building Official may allow modifications to the roof design if the alternate design is compatible with surrounding architecture.

- j. **Pavement.** All accessory buildings which are used as garages shall have paved driveways from the street to the garage. The paved driveway shall be a minimum of nine feet wide unless otherwise approved by the community development department. The community development department shall base its determination upon such factors as the narrowness, shallowness, shape or area of a specific piece of property, topographical conditions, or extraordinary or exceptional conditions of the property by which the strict application of this Ordinance would result in a practical difficulty; however, such practical difficulty shall not be self-created by the property owner.
 - k. **Drainage.** All driveways and garages shall be paved with asphalt or concrete and drained in accordance with the requirements of and upon approval of the city engineer.
- (2) **Utility Structures.** All ground-mounted transformers, generators, mechanical equipment, and similar equipment shall be subject to the following regulations.
- a. They shall be permitted only in the rear yard
 - b. In case of double frontage lots, the site plan review committee may permit such structures in the interior side yard, provided it is screened completely with an enclosure. Such enclosure shall be constructed of masonry materials similar/compatible to the buildings to which they are accessory and shall obscure all units within.
 - c. They shall be subject to screening requirements listed in section. 510.B.(8).b. Landscaping and Screening, unless otherwise as noted above.
- (3) **Swimming Pools.** All zoning districts allow for swimming pools shall be subject to the regulations below.
- a. Any artificially constructed portable or nonportable pool or container capable of being used for swimming, wading or bathing or any combination thereof, wholly outside a permanently enclosed and roofed building and designed to hold 2,500 gallons or more of water or a depth of two feet or more at any point. A swimming pool shall not be considered an accessory structure for purposes of computing lot coverage.
 - b. For the protection of the general public, outdoor swimming pools shall be enclosed by a wall, fence or other type of enclosure which may consist in part of the residence to which the swimming pool is appurtenant. Such wall or fence shall be not less than four feet or more than six feet above the ground line of the abutting level. Such wall, fence or enclosure shall not be required for all or such part of the pool that is four feet or more above the abutting ground level; provided, that a suitable barrier is furnished to deter entrance to the pool by persons not having the permission of the pool owner to enter therein when pool is not in use. Any wall shall be of wood, brick or masonry and any fence may be solid or designed so as to permit circulation of air; provided, that any wall or fence shall not be designed of such a nature as to permit any child to pass over, under or through any such fence except at a gate or door when such gate or door shall be opened. All openings in any such fence shall be equipped with a self-closing, self-latching gate which shall be securely locked.
 - c. Swimming pools, spas, hot tubs and similar devices are only permitted in the rear yard. No such structures shall be located closer than six (6) feet to any lot line. The minimum setback may be reduced up to three (3) feet subject to the Building Official determination that reduced setbacks would not negatively impact the surrounding uses or access to public or private streets.

- d. Construction shall be in accordance with the State Building Code.

(4) **Flag poles.** All zoning districts allow for flags shall be subject to the regulations below.

- a. Flagpoles shall be located within the property boundaries. The property owner shall determine the location of property lines and verify that the flagpole being installed is within those property lines.
- b. Flagpoles shall be located in an area where they do not conflict with parking drives or pedestrian circulation areas.
- c. The maximum height of the flagpoles including foundation, cannot exceed the maximum permitted height for principal structures of the respective zoning district. In any case, the height of any flagpole shall not be greater than the distance to the nearest property line.
- d. There shall be no more than two flagpoles.
- e. Flags bearing information that meet the definitions of a ‘sign’ as listed in section 10.511.1.B.10 cannot exceed 24 square feet and are limited to one such flag, subject to other conditions listed in this section. In instances, when such flag exceeds 24 square feet, they are considered as a sign for review and permitting purposes and shall comply with the sign ordinance requirements.
- f. The limits in item d, e above does not apply to single-family residences or any apartment dwelling when the flags are located within an area leased by the resident and not within any common area.
- g. A maximum of one (1) flagpole may be permitted in residential districts with a maximum height of twenty (20) feet. The Building Official may permit an additional 30 feet based on his determination that the additional height would not negatively impact the surrounding uses or access to public or private streets. The maximum square footage of all flags on the flagpole shall not exceed a total of 30 square feet.
- h. The maximum square footage of any number of flags per pole shall not exceed the recommended square footage listed below. Minor modifications to square footage requirements may be permitted by the Building Official if the appropriate structural analysis is provided.

Maximum Pole Height in feet	Maximum flag area in square feet
60 and above as permitted in the zoning district	135
50-59	96
40-49	72
30-39	50
20-29	30
Under 20	15

- i. All flagpoles shall be maintained in good condition, free of significant corrosion, tears, fraying, peeling paint or finish and other damage or deterioration.
- j. Prohibited Banners, pennants, spinners and streamers are not allowed.
- k. When illuminated, the lighting shall be directed away from roadways, traffic areas and adjacent residential properties.

1. A building permit is required for any new flagpole. A sign permit may be required if the flag meets the requirements of subsection e listed above.

Section 2. Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

Section 3. 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.

Section 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

Section 5. Effective Date.

This ordinance as ordered shall take effect Ten (10) days after its adoption and upon publication.

Section 6. Enactment.

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and 12:30 p.m. and 4:30 p.m. on regular business days.

Roslyn Grafstein, Mayor

Cheryl Rottmann, City Clerk

CERTIFICATION:

I, Cheryl Rottmann, the duly appointed City Clerk of the City of Madison Heights, County of Oakland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Madison Heights City Council at their Regular Meeting held on July 26, 2021.

Cheryl Rottmann, City Clerk

ZOTXT 21-05 (Ordinance 2169)

Planning Commission Discussion: April 20, 2021

Planning Commission Public Hearing: May 18, 2021

City Council First Reading: July 12, 2021

Adopted/ Public Hearing: July 26, 2021

Published: August 4, 2021

Effective: August 5, 2021