

# MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** KRISTEN KAPELANSKI, PLANNER *Kristen*  
**THRU:** BARBARA MCBETH, COMMUNITY DEVELOPMENT *Barb*  
**SUBJECT:** TEXT AMENDMENT 18.234 OUTDOOR SALES OF PRODUCE AND PLANT MATERIAL  
**DATE:** DECEMBER 3, 2008

---

Attached you will find a proposed ordinance amendment that the Community Development Department has been researching regarding outdoor sales of produce and plant material in the B-2, Community Business District, B-3, General Business District and the RC, Regional Center District. Attached you will find a map showing all B-2, B-3 and RC zoned properties throughout the City. This amendment is in response to recent requests from existing and proposed businesses to include outdoor produce and plant sales as an accessory to their permitted business.

The amendment would allow outdoor sales of produce and plant material as a Special Land Use in the B-3 District and the RC District. These sales would be subject to special conditions. The outdoor sales would have to be adjacent to the principal use, meet all applicable building and fire codes and a six foot path would need to be maintained for pedestrian traffic.

Section 3004 allows Temporary Special Exceptions for sidewalk sales. Sidewalk sales are permitted in the B-3 District for a period not to exceed 15 days (3 sales per year) with approval by the Building Official. Several retail establishments have taken advantage of this ordinance for temporary sidewalk sales and temporary special land uses, which are limited to two one-year administrative approvals. We have had interest from two grocery stores/markets to allow the outside sale of produce and plant materials throughout the year. This text amendment would address those interests.

The Planning Commission is asked to hold a public hearing on December 10<sup>th</sup>, 2008 and forward a recommendation to the City Council regarding this amendment. If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586 or [kkapelanski@cityofnovi.org](mailto:kkapelanski@cityofnovi.org).

**PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 07- 18 -234

**AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 97-18, AS AMENDED, KNOWN AS THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 15 AND ARTICLE 17, IN ORDER TO MODIFY THE STANDARDS FOR OUTDOOR SALES OF PRODUCE AND SEASONAL PLANTS.**

**THE CITY OF NOVI ORDAINS:**

**ARTICLE 14. B-2 COMMUNITY BUSINESS DISTRICTS**

Section 1400 – Section 1401. [Unchanged.]

Section 1402. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1. [Unchanged.]

2. Sale of produce and seasonal plant materials outdoors, provided such use is incidental to a similar principal use indoors and adjacent to and adjoining the building of the principal use, subject to the following conditions:

a. Outdoor sales areas shall comply with all applicable building and fire codes and shall be reviewed and approved by the Building Division.

b. Outdoor sales areas shall be located in a manner to maintain a minimum pathway width of 6 feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.

c. The hours of operation for an outside sales area shall be consistent with the hours of operation of the principal use.

d. Outdoor sales areas shall not occupy required parking spaces or drive aisles and/or required landscaping areas and shall be located on a paved surface.

Section 1403. Required Conditions

1. [Unchanged.]

2. All business, servicing or processing, except for off-street parking, and loading/unloading and those outdoor sales uses permitted and regulated in Section 1402 above, shall be conducted within completely enclosed buildings.

## ARTICLE 15. B-3 GENERAL BUSINESS DISTRICTS

Section 1500 – Section 1501. [Unchanged.]

Section 1502. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1 - 7. [Unchanged.]

8. Sale of produce and seasonal plant materials outdoors, provided such use is incidental to a similar principal use indoors and adjacent to and adjoining the building of the principal use, subject to the following conditions:

- a. Outdoor sales areas shall comply with all applicable building and fire codes and shall be reviewed and approved by the Building Division.
- b. Outdoor sales areas shall be located in a manner to maintain a minimum pathway width of 6 feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.
- c. The hours of operation for an outside sales area shall be consistent with the hours of operation of the principal use.
- d. Outdoor sales areas shall not occupy required parking spaces or drive aisles and/or required landscaping areas and shall be located on a paved surface.

Section 1503. [Unchanged]

## ARTICLE 17. RC REGIONAL CENTER DISTRICT

Section 1700 – Section 1701. [Unchanged.]

Section 1702. Principal Uses Permitted Subject to Special Conditions

[Unchanged.]

1 - 3. [Unchanged.]

4. Sale of produce and seasonal plant materials outdoors, provided such use is incidental to a similar principal use indoors and adjacent to and adjoining the building of the principal use, subject to the following conditions:

- a. Outdoor sales areas shall comply with all applicable building and fire codes and shall be reviewed and approved by the Building Division.
- b. Outdoor sales areas shall be located in a manner to maintain a minimum pathway width of 6 feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.
- c. The hours of operation for an outside sales area shall be consistent with the hours of operation of the principal use.

d. Outdoor sales areas shall not occupy required parking spaces or drive aisles and/or required landscaping areas and shall be located on a paved surface.

Section 1703. [Unchanged]

**PART III.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

**PART IV.**

**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.

**PART V.**

**Effective Date: Publication.** The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI,  
OAKLAND COUNTY, MICHIGAN, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
DAVID LANDRY, MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

Ayes:  
Nays:  
Abstentions:  
Absent:

**LETTERS OF INTEREST**





October 17, 2008

Barbara McBeth  
CDD Deputy Director  
City of Novi  
45175 W Ten Mile Rd  
Novi, MI 48375

Dear Barbara,

Outlined below is our proposed use of the area in front of our store for seasonal merchandising. The time frames are approximate due to the sometimes uncertain availability of the type of product we are dealing with.

- January through March we will not be merchandising product outside.
- Late April through August we will be merchandising hanging baskets, bags of soil and other outdoor flowers. We will also be merchandising summer produce such as melons during this timeframe. We will be using small half tables for the soil, flowers and produce. We will use a metal arb to hang flowering baskets on.
- September through October we will be selling hardy mums and other outdoor flowers. We will also have produce at this time.
- During the month of October we will be selling pumpkins outside.
- Late November through December we will be selling wreaths.

We plan on using half tables, half tables with umbrellas and metal arbs to display the product on. We will display very similar to this year.

I look forward to hearing back from you. Please let me know if you need any additional information and what the next step in the process is.

Thanks,

Jonathan Messer  
Store Manager  
248 348 0708  
Jonathan\_messer@buschs.com

**PLANNING COMMISSION MINUTES  
EXCERPT NOVEMBER 19, 2008**





## PLANNING COMMISSION ACTION SUMMARY

CITY OF NOVI  
Regular Meeting

**Wednesday, November 19, 2008 | 7 PM**  
Council Chambers | Novi Civic Center | 45175 W. Ten Mile  
(248) 347-0475

### CALL TO ORDER

In Mark Pehrson's absence, the meeting was chaired by member Wayne Wrobel, who called the meeting to order at or about 7:00 PM.

### ROLL CALL

**Present:** Members Brian Burke, David Greco, Andrew Gutman, Michael Lynch, Michael Meyer, Wayne Wrobel

**Absent:** Members Victor Cassis (excused), Brian Larson (excused), Mark Pehrson (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; David Beschke, Landscape Architect  
Kristin Kolb, City Attorney

### PLEDGE OF ALLEGIANCE

The meeting attendees recited the Pledge of Allegiance.

### APPROVAL OF AGENDA

Moved by Member Meyer, seconded by Member Gutman:

**VOICE VOTE ON NOVEMBER 19, 2008 PLANNING COMMISSION AGENDA APPROVAL MOTION MADE BY MEMBER MEYER AND SECONDED BY MEMBER GUTMAN:**

**Motion to approve the November 19, 2008 Planning Commission Agenda. *Motion carried 6-0.***

1. **SET A PUBLIC HEARING FOR DECEMBER 10, 2008 FOR ZONING ORDINANCE TEXT AMENDMENT 18.234 RELATING TO MODIFYING THE STANDARDS FOR OUTDOOR SALES OF PRODUCE AND SEASONAL PLANTS**

Deputy Director of Community Development Barbara McBeth said this proposed text amendment was generated by local retailers that sell produce and plant materials who wish to have outdoor sales. Staff has reviewed the concept and compared it to other communities' ordinances and finds that it might be appropriate to consider limited outdoor sales of produce and plant materials for certain markets in the B-3 and R-C Districts, perhaps even the B-2 District. This change would allow for Special Land Use consideration by the Planning Commission. It would allow sales on the sidewalk but not in the adjacent parking lot.

Moved by Member Gutman, seconded by Member Burke:

**ROLL CALL VOTE ON TEXT AMENDMENT 18.234 PUBLIC HEARING DATE SETTING MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER GUTMAN:**

**Motion to set a December 10, 2008 Public Hearing for Zoning Ordinance Text Amendment 18.234 relating to modifying the standards for outdoor sales of produce and seasonal plants. *Motion carried 6-0.***

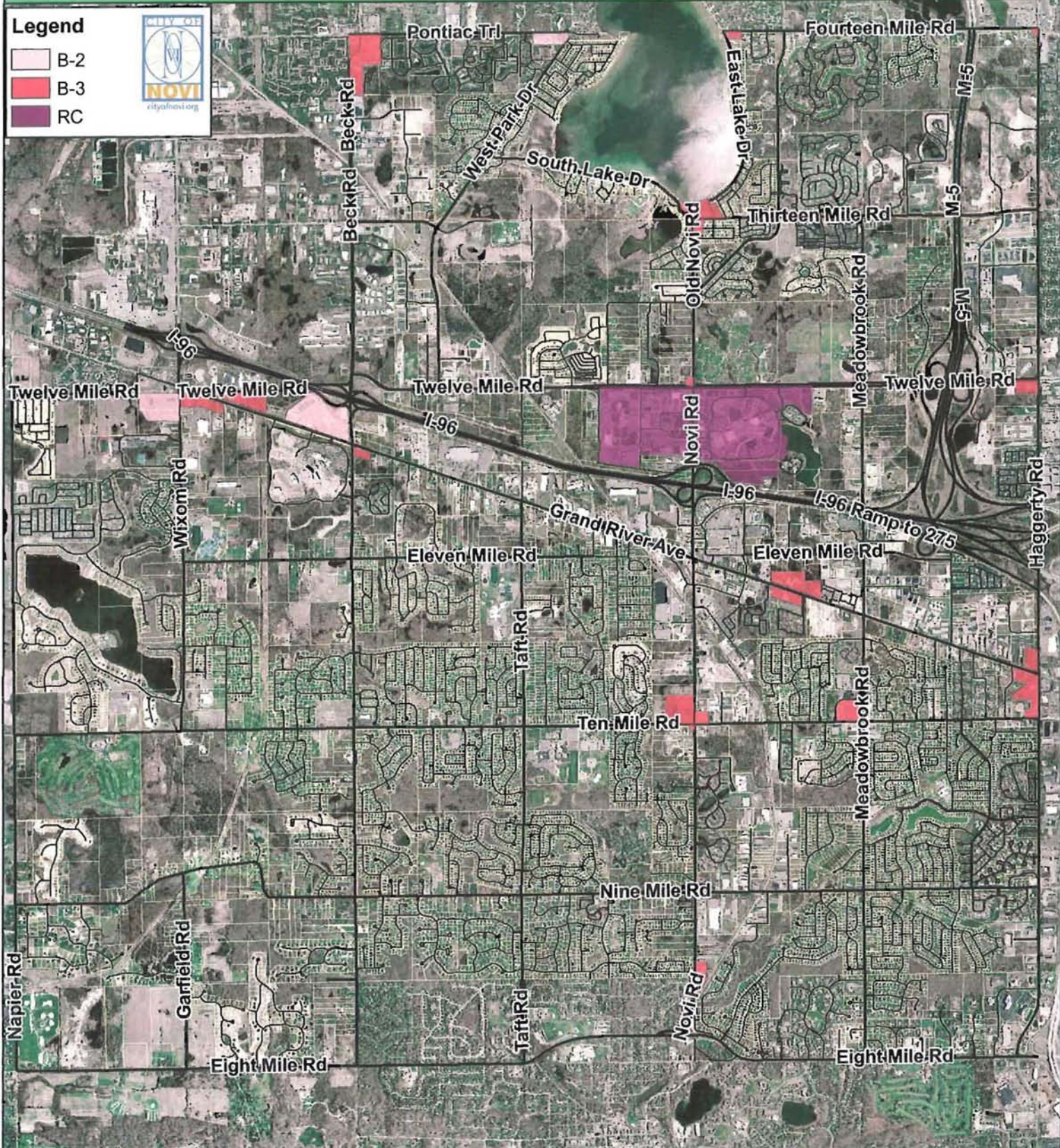
**PROPERTIES AFFECTED BY OUTDOOR SALES**



# Properties Affected by Outdoor Sales

## Legend

- B-2
- B-3
- RC



### CITY OF NOVI

DEPARTMENT OF COMMUNITY DEVELOPMENT

45175 W. TEN MILE ROAD  
NOVI, MI 48375-3024  
(248) 347-0415

MAP AUTHOR: Kristen Kapelanski, Planner



0 1,825 3,250 6,500 9,750

FEET

1 INCH = 4,160 FEET

MAP PRINT DATE: date

### MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.