BOROUGH OF HASBROUCK HEIGHTS

COUNTY OF BERGEN, NJ

ORDINANCE NUMBER 2536

AN ORDINANCE TO AMEND CHAPTER 275 OF THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS ENTITLED "ZONING" TO INCLUDE CERTAIN USES AS PERMITTED USES IN THE B-2 ZONING DISTRICT AND AMENDING §275-6 (DEFINITIONS).

WHEREAS, restaurant drive-thru facilities have grown in popularity and utilization; and

WHEREAS, the "fast casual" restaurant industry is focusing future business expansion and reinvestment areas with opportunities for drive-through facilities; and

WHEREAS, restaurant drive-thru facilities provide increased access to quick, convenient and inexpensive food options across a wider spectrum of the community; and

WHEREAS, the current zoning ordinances do not provide an opportunity for restaurant drive-thru facilities or sufficient protection of surrounding neighborhoods; and

WHEREAS, Borough Ordinance No. 2521 is hereby superseded, repealed and replaced by the instant Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF HASBROUCK HEIGHTS:

Section One. §275-6 Definitions shall be amended as follows:

RESTAURANT
> A commercial eating establishment where food and drink is served at tables and consumed primarily within the principal building. The term "restaurant" shall not be deemed to include what is commonly known as a "supermarket," "grocery store" or "delicatessen."

FAST-CASUAL RESTAURANT
> An eating establishment with no wait staff or table service, where food is ordered at a counter and is made to order, and where food and drink is consumed on or off premises.

FAST-CASUAL RESTAURANT WITH DRIVE THRU
> An eating establishment with no wait staff or table service, where food is ordered at a counter and is made to order, and where food and drink is consumed on or off premises, which also includes a drive-thru window or windows.

FAST-FOOD RESTAURANT

An eating establishment restaurant where customers order, pay for and collect hot or cold meals and drinks from a counter service whether or not the meals and drinks are to be consumed on or off the premises. The fast-food restaurant may or may not have seating.

FAST-FOOD RESTAURANT WITH DRIVE THRU

An eating establishment restaurant where customers order, pay for and collect hot or cold meals and drinks from a counter service whether or not the meals and drinks are to be consumed on or off the premises, with a drive-thru window or windows. The fast-food restaurant may or may not have seating.

Section Two. Chapter 275 of the Code of the Borough of Hasbrouck Heights is amended by adding the following section:

§275-7 (Restaurants with Drive-Thru Facilities).

Fast-Casual or Fast-Food Restaurants with Drive-Thru facilities as defined in §275-6 hereof, ARE PERMITTED USES IN THE B-2 HIGHWAY COMMERCIAL DISTRICT All Fast-Casual or Fast-Food Restaurants with Drive Thru facilities shall be subject to the underlying bulk regulations for the B-2 District, and subject to the following additional provisions:

(1)   Lot size. Restaurant drive-through facilities shall be located on lots greater than one half acre in size.

(2)   Frontage. Restaurant drive-through facilities shall be located on lots that are adjacent to or have frontage on Route 17.

(3)   Building Design. Any restaurant building with a drive-thru facility shall have an entrance facing the street and shall be clearly articulated through the use of architectural detailing. The front façade of the building shall include fenestration of at least 50% of its frontage.

(4)   Site Access. Any lot containing a restaurant drive-through facility shall have a minimum distance between any two curb cuts on said lot of at least 65 feet. Direct pedestrian access from a public right of way or street shall be provided to an entrance of the building.

(5)   Service Window/Canopy. Drive-through service window(s)/canopy(s) shall be located to the side or rear of the building. Canopies shall be subject to a reduced setback of 10' from the property line.

(6)   Queuing Lane. Drive-through service queuing lanes shall have at least 8 vehicle positions for each service window and at least two waiting positions for cars leaving said window. All such spaces shall:
(a) be aligned in tandem and physically separated from parking spaces;
(b) be located to the side or rear of the building; and
(c) not be permitted to fully wrap the building.

(7)   Landscaping. Landscaping and buffering shall be subject to §275-20J and §238-26.

(8)   Hours of operation. Restaurant drive-through facilities shall be prohibited from operation between the hours of 11:00 p.m. and 5:00 a.m.

(9)   Trash Areas. All service, storage and trash areas shall be completely screened from public view. All outside trash receptacles shall be located

within an enclosure constructed of decorative masonry material a minimum of four feet and a maximum of six feet in height and shall be provided with opaque gates of the same height.

(10) <u>Signs.</u>   Signs shall be subject to §275-21E.   The following additional signs shall be permitted for drive-thru restaurants:

   (a) Menu boards.   Menu boards shall be limited to one menu board per drive-through lane, and limited to a dimension of 25 SF.

   (b) Directional Signs.   Directional signs shall be unlimited in number, to effectuate safe traffic patterns on site, but limited to a dimension of 4 square feet.

(11) <u>Outdoor dining.</u>   Outdoor dining is permitted as an accessory use to a fast-food or fast-casual restaurant with or without a drive-thru, subject to the following:

   a) Outdoor dining shall be in an area that is protected from any drive-thru lane or parking area using safety measures, including but not limited to bollards, low walls, or other measures as required by the Planning Board.

   b) Outdoor dining is not permitted on the side of the building adjacent to residential properties.

Section 3.   Schedule 1, <u>Schedule of District Use Regulations</u> is hereby amended as follows:

Section 10 (set out below) of the Permitted Uses in the B-2 Zone is hereby deleted:

10) Restaurants, dining rooms and other such establishments in which food and beverages are prepared and served or otherwise provided to the customers thereof for consumption upon such premises or within the designated perimeter of a sidewalk café appurtenant thereto and approved under § 275- 22E of this Code or intended to be taken by the customer to or delivered to the customer at the residence of that customer for consumption there, but nevertheless exclusive of drive-in restaurants and replaced with the following:

10) Restaurants, Fast-Food Restaurants, and Fast-Casual Restaurants shall be permitted uses.

Section 4.   Severability.

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated and shall remain in full force and effect.
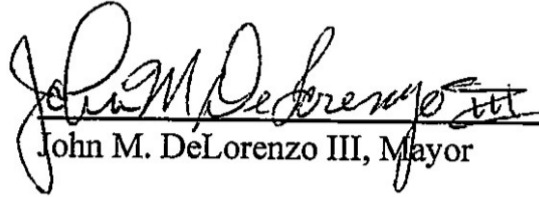
Section 5.   Effective date.

This Ordinance shall take effect immediately upon final publication as required by law.

Section 6.   Repeal of inconsistent ordinances.

All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.
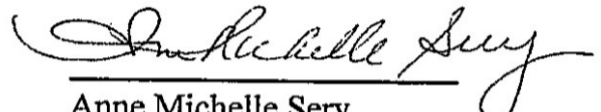
Approved this 14th day of November, 2023

John M. DeLorenzo III, Mayor

Introduced: September 26, 2023
Adopted: November 14, 2023

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	PRESENT	ABSENT
Sickels	✓		✓				
Bing		✓	✓				
McGuire			✓				
Kistner			✓				
Meli			✓				
Hillmann							✓

The foregoing Ordinance No. 2536 was finally adopted by the Borough Council at a meeting held on the 14th day of November, 2023 and approved by the Mayor on same date.

Anne Michelle Sery
Acting Borough Clerk