



MEMORANDUM

To: City Council

cc: Kahlil Seren, Mayor
William Hanna, Law Director

From: Eric Zamft, Director of Planning & Development

Date: February 14, 2023

Subject: Zoning & Building Amendments Ordinances: 1) An Ordinance amending Part Eleven – Zoning Code of the Codified Ordinances of Cleveland Heights Regarding Private Parking Garages, Driveway Widths, Fences, Window Transparency, Rain Barrels and Gardens, Non-Conformities, Public Notice Requirements, Fees, and General Changes to Ensure Consistency; 2) An Ordinance amending Part Thirteen, Building Code, of the Codified Ordinances of Cleveland Heights to update the City’s regulations regarding rain barrels and gardens, and general changes to ensure consistency

Background:

Local ordinances are “living and breathing” documents that can be amended from time-to-time in order to keep up with changes in the social and economic environments. The City has followed this practice by constantly and consistently reviewing its Codified Ordinances and – when appropriate and necessary – making changes to those Ordinances. This is particularly the case with Part Eleven – Zoning Code.

The City’s Zoning Code is central to development, redevelopment, and investment within the City. Planning staff is looking at ways to improve the zoning approach, regulations, and process, with the intent of pursuing a comprehensive rezoning effort in the hopeful near future. That intent should not prevent, however, the City from addressing pressing zoning issues within the City’s existing code.

Pursuant to Section 1119.08 of the Codified Ordinances of the City of Cleveland Heights, the Planning Commission is required annually to review the Zoning Code and make recommendations to Council. During the course of 2022, the Planning Commission discussed elements of the Zoning and Building Codes with staff from the Departments of Planning &

Development and Law as a result of cases that have appeared before them. At the October 26, 2022, November 9, 2022, and December 14, 2022 Planning Commission meetings, the Planning Commission discussed with staff areas of the Zoning and Building Codes that needed review or topics that are not reflected in the Zoning and Building Codes.

Based upon this review and discussion, the Planning Commission identified and recommended a number of areas for revision at this time: private parking garages, fences, window transparency, rain barrels and gardens, non-conformities, public notice requirements, fees, and general changes to ensure consistency. There were a number of other areas that the Planning Commission acknowledged require further review and did not recommend revision at this time.

These recommendations were forwarded to Council and the Planning Director presented them at the January 16, 2023 Committee of the Whole meeting. At that meeting Council was supportive of moving forward with the formal consideration of these changes, but requested additional examination of parking and driveway standards. Staff has updated the proposed zoning text amendments to include changes to driveway standards, as well as additional clean-up of the code. Note that some of the concerns raised by Council related to parking potentially in the public right-of-way are not applicable to the Zoning Code; rather, those are larger policy considerations. Thus, no additional changes to parking on private parking were proposed.

Zoning text amendments must follow the procedures put forth in Chapter 1119, including, but not limited to Council referral to the Planning Commission, Planning Commission review and recommendation, and Council public hearing. The full process will be discussed below. Staff worked with the Law Department to prepare an Ordinance for Council's consideration to start the review process. Changes to other parts of the Codified Ordinances, including the Building Code, do not require this process.

Attached please find: 1) an ordinance to amend the Zoning Code (along with the proposed zoning text amendments as an exhibit); 2) an ordinance to amend the Building Code (along the proposed Building Code amendments as an exhibit); 2) the resolution adopted by the Planning Commission.

Summary of Ordinance (Recommended Zoning Text Amendments):

Environmental/Sustainability

- Adds language regarding environmental stewardship to Purpose of zoning code (Section 1101.02)
- Adds/revises definitions for 'rain barrel' and 'rain garden' (Section 1103.03)
- Revises where rain barrels are permitted (Section 1121.12(m))
- Permits rain barrels as an accessory use in multiple-family districts (Section 1123.05)
- Standardizes reference to 'stormwater'
- Provides credit for use of pervious pavers/materials (Section 1121.12(c) and (d))
- Adds language regarding stormwater runoff to Purpose for landscaping (Section 1166.01)

General / General throughout Code

- Replaces 'citizen' with 'resident'
- Standardizes how numbers are written (for example – 'two (2)'; 'fifty percent (50%')
- Revisions related to consistency of terms (e.g., 'town house dwelling', 'multiple-family')
- Standardizes term 'Zoning Code'; 'Codified Ordinances'
- Corrects misspellings
- Standardizes in definitions how similar terms are referenced (for example "Veterinary office". (See "animal clinic".)
- Removes requirements to keep records, including the zoning map, on display/in City Hall (Sections 1107.02(e); 1109.04; 1111.04; 1166.03(c))
- Revises references to 'Chairman' to 'chairperson'
- Clarifies what a development plan is, standardizes nomenclature ('Development Plan'), removes specific reference to City's Strategic Development Plan.
- Standardized lists to includes semi-colons, and then 'and' or 'or' before last entry
- Standardizes language related to referencing regulations in other sections (for example 'subject to the regulations of Section X')
- Corrects incorrect references to notes, sections, etc.
- Changes approvals of 'Planning Director' to 'Zoning Administrator'
- Standardizes reference to 'Planning Commission'
- Corrects reference to permitted conditional uses in the MF-2 District regarding the S-2 District (Section 1145.02(b)(2))
- Clarifies legal, nonconforming gasoline stations in the C-2 District (Section 1153.05(t)(2))
- **(new)** Clarifies definition and standards of Live/Work Dwelling to be consistent (Section 1103.03(b)(63); Schedule 1131.02(a)(6); Section 1131.13)
- **(new)** Standardizes reference to 'corner side yard'
- **(new)** Standardizes convenience retail as a principally permitted use in all commercial districts (Schedule 1131.02(c)(2))

Noticing

- Removes requirement to place public notice in newspaper of general circulation (Sections 1103.03(a)(10); 1115.06(d); 1115.07(d); 1115.08(d); 1143.10(e))
- Revises requirement that public notice must be posted 10 days in advance of hearing (Sections 1115.06(d); 1115.07(d); 1115.08(d))
- For Zoning Text Amendments and Zoning Map Changes, revises noticing to be consistent with Chapter 107 of the City's Codified Ordinances (Sections 1119.05 and 1119.06)
- Removes specific notice of approval to neighbors regarding bees (Section 1153.05(ee)(4)(B))
- Removes specific notice of approval and reference to complaints regarding chicken coops (Section 1153.05(gg)(3) and (4))

Annexation of New Territory

- Removes Section 1105.06 (Annexation of New Territory), which requires that any new territory annexed by the City be designated an AA District

Building Permit Procedures

- Clarifies the type and order of reviews for building permits (Section 1115.02)

BZA

- Requires written authority from owner (Section 1115.07)
- Clarifies staff report role in Council approval (Section 1115.07(i))

Fees

- Removes requirement that schedule of fees be available at City Hall (Section 1115.12). Note, Council passed new fees on 12/5/2022, which took effect on 1/4/2023.

ABR Review (Note these changes were discussed also with the ABR Chair)

- Removes ABR review of a number of administrative approvals, where such change is not visible from the public street or screened, and/or those approvals that require ABR review already (Sections 1121.08(c); 1121.12(b); 1123.11; 1131.13; 1153.05(p)(4); 1153.05(ee)(13)).

Schedule Updates

- Multiple revisions to Schedule 1121.12(a)
- Multiple revisions to Schedule 1121.12(d)
- Adds title to Schedule 1123.07
- Adds title to Schedule 1161.035
- Revises notes in Schedule 1163.04 to remove unreferenced notes

Fences/Walls

- Changes approval to Building Commissioner (Sections 1121.12(i))
- Other changes to fence regulations to be consistent (Sections 1121.12(i); 1166.06(b)(5); 1166.07(b)(1))

Commercial District Changes

- Removes metric for window transparency, as it is hard to measure (Sections 1131.075 and 1131.076)
- Permits sale of liquid fuel as part of principally or conditionally-permitted use (Section 1131.11)
- **(new)** Clarifies that a public entrance is required from the Primary Street (Section 1131.075(b)(1))

Parking/Driveways

- Creates new standard for single-family dwelling unit with 2 or fewer bedrooms (Schedule 1161.03)
- Clarifies that reduction in enclosed private parking only applies to properties with existing buildings and does not apply to new construction (Section 1161.051)
- Adds that an administrative approval of going from a one-car garage to a one-car garage (Section 1161.051(a)(iii))
- Adds requirement that new parking lots shall not be in front yard (Section 1161.06(e))
- Permits curb-stops instead of curbs (Section 1161.11(f), 1166.06(a)(6), 1166.06(b)(6))
- **(new)** Enhances flexibility in driveway widths, particularly for single-car garages, and standardized reference to driveway widths (Sections 1121.12(k)(2); 1121.12 (p); and 1161.105)

Signs

- Permits historic district signs as public signs (Section 1163.02(b)(1))
- Clarifies that maximum sign area is per sign face (Section 1163.06(b))
- Removes some regulations for construction signs (Section 1163.06(g))

Landscaping

- Requires that a tree preservation plan be submitted and approved by Planning Commission for larger scale projects (Section 1166.11(f))

Non-Conformities

- Limits alterations to non-conforming buildings (Section 1173.01(a))

Summary of Ordinance (Recommended Zoning Text Amendments):

- Changes fence permit approval to Building Commissioner to be consistent with other building permits (Section 1321.01(a))
- Adds/revises definitions for 'rain barrel' and 'rain garden' (Sections 1341.2301 and 1341.2302)
- Revises Building Code language regarding rain barrels/gardens (Section 1351.25(f))

Process for Zoning Text Amendments:

Chapter 1119 of the Zoning Code provides the regulations and process for amending the Zoning Code. What follows is a summary of the process.

1. Introduction of amending ordinance to Council (Section 1119.02) – ***Subject of this agenda item***
2. Referral to Planning Commission for consideration and recommendation. The Commission shall be allowed a reasonable time, not less than thirty (30) days, nor more than sixty (60) days for its consideration and recommendations (Section 1119.03).

3. Planning Commission consideration and recommendation at regularly-scheduled meeting or special meeting or workshop – all open to the public to watch (Section 1119.04).
4. Public hearing by Council, including appropriate noticing (Section 1119.05).
5. Action by Council. After the public hearing Council shall either adopt or deny the recommendation of the Planning Commission (Section 1119.06).