



CLEVELAND HEIGHTS

**Council Committee of the Whole
Public Hearing – Zoning Code Amendments
November 6, 2023
5:30 PM
City Hall – Council Chambers**

Agenda

- 1) Roll Call/Call to Order**
- 2) Legislation for Public Hearing on Zoning Changes**
 - a. ORDINANCE NO. 127-2023(PD): Second Reading.** An Ordinance introducing amendments to various Sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights to create and make permanent the City of Cleveland Heights Shared Spaces Program; and declaring the necessity that this legislation become immediately effective as an emergency measure.
Introduced by Mayor Seren
 - b. ORDINANCE NO 150-2023(PD): Second Reading.** An Ordinance amending various sections of Chapters 110, 311, 351, 371, 521 and 1321 of the Codified Ordinances to facilitate a permanent Shared Spaces Program within the City; and declaring the necessity that this legislation become immediately effective as an emergency measure.
Introduced by Mayor Seren
- 3) Adjourn**



MEMORANDUM

To: Mayor Seren
CC: William Hanna, Law Director
From: Eric Zamft, Director of Planning & Development
Date: August 18, 2023
Subject: Shared Spaces Program

The City prides itself on its many business districts. The City has for many years permitted outdoor dining—both on private property and within the public right-of-way—as a way to support the business community and enliven spaces for residents and visitors. However, beginning in March 2020, the COVID-19 pandemic forced us to re-examine places and spaces—how we interact with our neighbors and friends and how we work, live, and play.

On July 6, 2020, in response to the COVID-19 pandemic, Council, Resolution No. 83-2020, authorized a Temporary Expansion Area (“TEA”) Program for the creation or expansion of outdoor dining, entertainment and retail areas. In light of the COVID-19 guidelines and mandates imposed upon affected businesses through Orders issued by the Governor and State Department of Health, the TEA Program authorized business to use private property such as private parking lots, as well as City-owned property, streets and other public rights-of-way, to expand their facilities as a means to combat the financial loss to businesses whose operations were affected by said Orders. Resolution No. 83-2020 provided a sunset date of November 1, 2020 for the TEA Program. Due to the continuing negative impacts of the COVID-19 pandemic, by Resolution No. 131-2020, Council extended the TEA Program until December 31, 2021.

In 2020 and 2021, the City issued a number of TEA permits, including for a pilot “parklet” along Cedar Road as a tool to help businesses survive the COVID-19 health crisis. The pilot program was well-received. In 2022, a number of businesses inquired about the program, but, ultimately, were unable to complete the approval process. In 2023, the City of Cleveland Heights desires to create a permanent City-wide program (the “Shared Spaces Program”). Earlier this year, Council adopted Resolution 103.023, which authorized the Shared Spaces program to continue during 2023. In order to make the Shared Spaces Program permanent, the Codified Ordinances of the City of Cleveland Heights, including the Zoning Code, need to be amended.

The two (2) pieces of legislation codifies the Shared Spaces Program as a permanent program moving forward. Should Council desire to move forward with the legislation, the proposed Zoning changes must be referred to the Planning Commission, per Chapter 1119 of the Zoning Code.

Proposed: 8/21/2023

ORDINANCE NO. 127-2023(PD), *Second Reading*

By Mayor Seren

An Ordinance introducing amendments to various Sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights to create and make permanent the City of Cleveland Heights Shared Spaces Program; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, pursuant to Section 1119.01 of the Codified Ordinances of the City of Cleveland Heights, this Council may by Ordinance and upon its own initiative, introduce amendments to the Zoning Code of the Codified Ordinances of the City of Cleveland Heights; and

WHEREAS, pursuant to Section 1119.03 of the Codified Ordinances of the City of Cleveland Heights, after the introduction of such amending Ordinance by Council, such amending Ordinance shall be transmitted to the Planning Commission for its consideration and recommendation; and

WHEREAS, pursuant to Section 1119.03 of the Codified Ordinances of the City of Cleveland Heights the Planning Commission shall be allowed a reasonable time, not less than thirty (30) days and nor more than sixty (60) days, for its consideration and recommendations; and

WHEREAS, the City of Cleveland Heights prides itself on its many business districts and has for many years permitted outdoor dining—both on private property and within the public right-of-way/on public property—as a way to support the business community and enliven spaces for residents and visitors; and

WHEREAS, beginning in March 2020, the COVID-19 pandemic forced all of us to re-examine places and spaces—how we interact with our neighbors and friends and how we work, live, and play; and

WHEREAS, on July 6, 2020, in response to the COVID-19 pandemic, Council, by way of Resolution No. 83-2020, authorized a Temporary Expansion Area (“TEA”) Program for the creation or expansion of outdoor dining, entertainment and retail areas; and

WHEREAS, in light of the COVID-19 guidelines and mandates imposed upon affected businesses through Orders issued by the Governor and Director of the Ohio Department of Health, the TEA Program authorized business to use private property such as private parking lots, as well as City-owned property, streets and other public rights-of-way, including on-street parking areas, sidewalks, and parklets to expand their facilities as a means to combat the financial loss to businesses whose operations were affected

ORDINANCE NO. 127-2023(PD)

by said Orders; and

WHEREAS, the TEA Program was very well-received was therefore extended on several occasions in relation to the pandemic; and

WHEREAS, at the Mayor's request, the City Administration developed a Shared Spaces Program and Manual in 2022-23 to guide the permitting and regulation of such facilities and spaces; and

WHEREAS, in 2023, Council adopted Resolution 103-2023 to authorize a Shared Spaces Program for the 2023 outdoor dining season through November 1, 2023, in accordance with the Shared Spaces Program and Manual, and now wishes to establish a permanent program (the "Shared Spaces Program"), necessitating amendments to the Zoning Code.

BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. Pursuant to Section 1119.01 of the Codified Ordinances, this Council hereby introduces amendments to Sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights, as set forth in **Exhibit A** attached hereto.

SECTION 2. Pursuant to Section 1119.03 of the Codified Ordinances, this proposed amending Ordinance shall be transmitted to the Planning Commission.

SECTION 3. Notice of passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need for the introduction of the proposed zoning amendments to be effective at the earliest time possible so that said amendments can be timely considered and acted upon by the Planning Commission for the benefit of the City and its residents. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of the Council

ORDINANCE NO. 127-2023(PD)

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to Mayor: _____ Approved by Mayor: _____

KAHLIL SEREN
Mayor

Exhibit A to Ordinance XX-2023
PROPOSED ZONING TEXT AMENDMENTS:
SHARED SPACES

May 22, 2023

CHAPTER 1103

Definitions

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1103.03 DEFINITIONS OF GENERAL TERMS.

(b) Certain general terms are hereby defined as follows:

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(85.5) "Parklet" means seating platforms that convert curbside parking spaces (or public rights-of-way) into gathering or dining spaces.

(85.7) "Pedlet" means public platforms that convert curbside parking spaces into safe, pedestrian walkways. These installations provide access around expanded or new outdoor dining facilities installed on the sidewalk.

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(104.2) "Shared Space" means temporary outdoor dining facilities, parklets, and pedlets within private property, such as private parking lots, as well as City-owned property, streets and other public rights-of-way, including on-street parking areas, sidewalks.

(104.5) "Shared Spaces Manual" includes the process, rules, and regulations related to the Shared Spaces Program, including eligible applicants, site selection, public health and safety, liquor permits, design permits, the application, the review and approval process, the installation and inspection process, rules regarding operation and maintenance, and rules regarding removal/renewal and evaluation.

(104.7) "Shared Spaces Program" means the City of Cleveland Heights' permanent program to permit a Shared Space.

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CHAPTER 1107

Zoning Administrator

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1107.02 POWERS AND DUTIES.

For the purpose of this Zoning Code, the Zoning Administrator shall have the following duties:

- (a) Enforce the provisions of this Zoning Code and interpret the meaning and application of its provisions.
- (b) Issue zoning approval as provided by this Zoning Code and keep a record of same with a notation of any special conditions involved.
- (c) Accept and review for completeness all applications upon which the Zoning Administrator is authorized to review by the provisions of this Code. The Zoning Administrator shall promptly review each application submitted to determine compliance with applicable district regulations and submission requirements. If the application is deemed insufficient, the Zoning Administrator shall promptly notify the applicant of necessary changes. If the application is deemed sufficient and the application fee has been paid, the Zoning Administrator shall officially accept the application on that date from consideration of the action(s) requested.
- (d) Respond to questions concerning applications for amendments to the Zoning Code text and the official Zoning Map.
- (e) Maintain in current status the official Zoning Map.
- (f) Maintain permanent and current records required by this Code, including but not limited to zoning approval, inspection documents, and records of all variances, amendments, conditional uses, and similar use determinations.
- (g) Make such records available for the use of Council, the Planning Commission, the Board of Zoning Appeals, and the public.
- (h) Conduct inspections of buildings and uses of land to determine compliance with this Zoning Code and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- (i) Determine the existence of any violations of this Zoning Code and cause such notifications, revocation notices, stop orders, or tickets to be issued, or initiate such other administrative or legal action as needed, to address such violations.
- (j) Administer the Shared Spaces Program with relation to a Shared Space on private property.

CHAPTER 1115 Procedures

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1115.02 BUILDING PERMIT REQUIRED.

No building or other structure shall be erected, constructed, reconstructed, enlarged, moved or structurally altered nor shall any excavation or site improvements be commenced, until a building permit has been applied for and received by the owner of the property involved or a person having an interest in such property and acting under written authority of the owner, and issued by the Building Commissioner. If applicable, no building permit shall be issued until the Zoning Administrator or designated agent has approved the application for the permit for Zoning Code compliance.

(a) Such approval shall be granted only when:

(1) The Zoning Administrator or designated agent finds that all applicable requirements and standards of this Zoning Code have been complied with;

(2) A request for a variance has been approved by the Board of Zoning Appeals in accordance with the limitations, procedures and requirements of this Chapter and has been approved by Council, as applicable;

(3) The Planning Commission or Zoning Administrator has issued a conditional use permit for the conditional use in accordance with the procedures described in this Chapter;

(4) The Planning Commission has made a determination in accordance with the procedures described in this Chapter that a proposed use is substantially similar to a principal or conditionally permitted use in the zoning district in which such use is located;

(5) The Board of Control has approved a detailed development plan for a proposal in the S-1 District, according to the procedures established in Section 1143.10; and/or

(6) The Architectural Board of Review has approved the application for the proposed use, building or structure as required by the 'Codified Ordinances, including this Zoning Code.

(b) In the event that an application for a building permit requires approval by more than one (1) board or commission, the following order of review should generally be observed:

- (1) Review by the Board of Zoning Appeals, as applicable;
- (2) Review by the Architectural Board of Review, as applicable;
- (3) Review by the Landmarks Commission, as applicable;
- (4) Review by the Planning Commission or Board of Control, as applicable;
- (5) Review by Council, as applicable.

(c) In the event that an application for a fence permit requires approval by more than one (1) board or commission, the following order of review should generally be observed:

- (1) Review by the Architectural Board of Review, as applicable;
- (2) Review by the Board of Zoning Appeals, as applicable;
- (3) Review by the Planning Commission or Board of Control, as applicable;
- (4) Review by Council, as applicable.

(d) It is the objective of this Zoning Code to process applications as expeditiously as possible. Therefore, recognizing the interrelationships of the various review components, the Zoning Administrator, prior to Council consideration and with the consent of the applicant, may alter the above order to accomplish the review in an order deemed more timely.

(e) For the Shared Spaces Program, the above shall be superseded by the processes contained in the Shared Spaces Manual, as may be updated from time-to-time.

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1115.08 CONDITIONAL USES; SUBMISSION REQUIREMENTS AND PROCEDURES.

When a proposed use is permitted in a zoning district as a conditional use as set forth in the district regulations, a conditional use permit is required prior to the issuance of a building permit. The owner, or agent thereof, of property for which such conditional use is proposed shall file with the Zoning Administrator an application for a conditional use permit upon forms provided by the Zoning Administrator. Conditional use applications requiring approval by the Planning Commission shall be reviewed in accordance with the following procedures:

(a) Submission Requirements. An application for a conditional use permit shall be accompanied by plans, elevations, drawings, and other documentation as set forth in Section 1115.09, and the payment of the application fee as established by Council.

(b) Review for Completeness by the Zoning Administrator. Upon receipt of an application, the Zoning Administrator shall, within ten (10) working days, make a preliminary review of the application to determine whether such application provides the information necessary for review and evaluation. If it is determined that such application does not provide the information necessary for such review and evaluation, the Zoning Administrator shall so advise the applicant of the deficiencies and shall not further process the application until the deficiency is corrected.

(c) Public Hearing by the Planning Commission. The Planning Commission shall hold a public hearing within seventy-five (75) days from the date the application is accepted as complete by the Zoning Administrator.

(d) Notice of Public Hearing. Before conducting the public hearing required in subsection (c) hereof, notice of such hearing shall be posted on the City's website at least ten (10) days before the date of such hearing. In addition, a written notice of the hearing shall be mailed by the Zoning Administrator or designated agent at least ten (10) days before the day of the public hearing to the applicant, the owner of the property if he or she is not the applicant, and to adjacent properties to the attention of the owners of such properties as follows:

- (1) Properties on the same side of the street which abut the site on which the building or use is sought to be located;
- (2) Properties on the same side of the street next contiguous to the premises so abutting;
- (3) Properties across the street immediately opposite the site; and the premises opposite the abutting and contiguous premises referred to in subsections (1) and (2) hereof; and
- (4) All other premises abutting the site.

The notice shall set forth the time and place of the public hearing and the nature of the proposed conditional use. The failure of any person to receive such notice shall not affect the right and power of the Commission to hear such application or to take action in accordance with such public notice.

(e) Review by the Commission. The Planning Commission shall review each application for a conditional use permit to determine if such request complies with the purpose and intent of the conditional use regulations as set forth in Title Seven of this Zoning Code.

(f) Action by the Planning Commission. After the public hearing required in subsection (c) hereof, the Commission shall either approve, approve with supplementary conditions as specified in subsection (g) hereof, or disapprove the request for conditional use permit.

(g) Additional Conditions. The Planning Commission may impose such additional conditions, stipulations, safeguards and limitations on the duration of the use as it may deem necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Zoning Code will be observed. Any conditional use permit when so issued by the Zoning Administrator upon order of the Commission shall set forth such conditions, stipulations, safeguards and duration limit. The Commission may not extend the scope or extend the duration of a conditional use permit previously issued upon its order. Any additional action so desired may be effected only upon application to the Zoning Administrator for issue of a new conditional use permit in accordance with the provisions of this Zoning Code.

(h) Time Frame for Commission Action. An applicant may request that an application for a conditional use permit be acted upon by the Commission within ninety (90) days of the start of the public hearing. An applicant may by subsequent written communication or oral representation under oath agree to an extension of such prescribed time for Commission action. Failure of the Commission to act within the ninety (90) days or extended time period as so agreed upon, shall, at the election the applicant, be deemed a denial of the conditional use permit. A Commission action becomes and is in full force and effect at the time of said Commission action pursuant to Section 1111.05.

(i) Terms of Conditional Use Permit. Each conditional use permit granted by the Planning Commission shall state upon its face the time limit within which the applicant shall complete the installation of the use, or the construction or alteration of the structure which is the subject of the application. Failure on the part of the applicant to complete the installation, alteration or construction within the allotted time shall terminate all rights under such conditional use permit. However, the Commission may, for good cause shown, extend from time to time the time limit but in no case more than a date eighteen (18) months from and after the date of the original time limit within which the applicant was required to complete the installation of the use, unless construction is actively underway. If any action is taken that is contrary to the terms of the conditional use permit or contrary to conditions accompanying the conditional use permit, the Commission may revoke such conditional use permit. A conditional use permit issued pursuant to this Chapter shall be valid only to the person to whom issued, unless a transfer of such permit has been approved by the Commission.

(j) Exception for Shared Spaces Program. For the Shared Spaces Program, the above shall be superseded by the processes contained in the Shared Spaces Manual, as may be updated from time-to-time.

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1115.12 SCHEDULE OF FEES.

Council shall by ordinance establish a schedule of fees for building permits, amendments, appeals, variances, conditional use permits, and other procedures and services pertaining to the administration and enforcement of this Zoning Code after considering the recommendations of the Zoning Administrator with respect to actual administrative costs, both direct and indirect. The fees

for the Shared Spaces Program shall be listed within the Shared Spaces Manual, as may be updated from time-to-time. All other fees shall be waived for the Shared Spaces Program. The schedule of fees shall be available on the City's website, and may be altered or amended only by Council, with the exception of the fees associated with the Shared Spaces Program, which may be altered or amended administratively. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

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CHAPTER 1131

Commercial Districts

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1131.02 PRINCIPAL AND CONDITIONALLY PERMITTED USES.

(a) Unless otherwise provided by law, the Shared Spaces Manual, or in this Code, buildings, structures or land shall only be used or occupied following the adoption of this Zoning Code for the uses permitted herein. Schedule 1131.02 enumerates those uses that may locate in a C-1 Office, C-2 Local Retail, C-2X Multiple Use and C-3 General Commercial District as a matter of right as a principal use, and those uses which may locate in a given district only upon obtaining a conditional use permit.

(1) A use listed in Schedule 1131.02 shall be permitted by right in a district when denoted by the letter P provided that all requirements of the Codified Ordinances and this Zoning Code have been met.

(2) A use listed in Schedule 1131.02 may be permitted as a conditional use in a district when denoted by the letter C, provided that the requirements of Title Seven have been met.

(b) Although a use may be indicated as permitted or conditionally permitted in a particular commercial district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Code applicable to the specific use and parcel in question.

Schedule 1131.02

PERMITTED AND CONDITIONALLY PERMITTED USES IN COMMERCIAL DISTRICTS

| <i>Land Use Category</i> | <i>C-1 Office District</i> | <i>C-2 Local Retail District</i> | <i>C-2X Multiple Use District</i> | <i>C-3 General Commercial District</i> |
|--|----------------------------|----------------------------------|-----------------------------------|--|
| (a) Residential Uses: | | | | |
| (1) Multi-family dwelling as a free-standing building | P | | | |
| (2) Multi-family dwelling units above the first floor in association with permitted commercial use | P | P | P | P |
| (3) Lodging house and boarding house including convent, home for the aged, residential care facility, and other congregate living facility | C | C | C | C |
| (4) Nursing home including intermediate and long-term care facility | C | C | C | C |
| (5) Dormitories, fraternities, sororities | C | C | C | C |
| (6) Live/Work Dwelling subject to the regulations of Section 1131.13 | C | C | C | C |
| (b) Office/Professional/Medical Uses: | | | | |
| (1) Offices provided that only samples of merchandise are displayed or stored in the premises | P | P | P | P |
| (2) Financial establishment without drive-through facility | P | P | P | P |
| (3) Financial establishment with drive-through facility | C | C | C | C |
| (4) Financial establishment with Automatic Teller Machine (ATM) | C | C | C | C |

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|-----|--|--|------|------|------|------|
| | (5) | Animal clinics, veterinary offices, animal training, animal grooming facilities, animal day-care facilities, overnight boarding of animals in conjunction with animal clinics, veterinary offices, animal grooming facilities and animal day-care facilities | C | C | C | C |
| | (6) | Funeral homes and mortuaries | | | | C |
| | (7) | Hospitals | C | | | C |
| | (8) | Urgent care clinics | C | C | C | P |
| (c) | <u>Retail/Service Uses:</u> | | | | | |
| | (1) | Retail establishments in wholly enclosed buildings | | P | P | P |
| | (2) | Convenience retail and service establishments in an office building provided such business occupies no more than an area equal to one-hundred percent (100%) of first floor area | P | P | P | P |
| | (3) | Personal services including dry cleaning, laundry, beauty salon, tattoo parlor, body piercing | | P | P | P |
| | (4) | Restaurants bar, tavern, nightclub | | P | P | P |
| | (5) | Catering | | C | C | P |
| | (6) | Outdoor dining facility, except a Shared Space | | C | C | C |
| | (7) | Drive-through facility in association with a permitted restaurant, retail or service use | | C | C | C |
| | (8) | Hotels | C | C | C | C |
| | (9) | Shared Space | P(a) | P(a) | P(a) | P(a) |
| (d) | <u>Automotive Uses:</u> | | | | | |
| | (1) | Automobile sales, new or new and used | | | | C |
| | (2) | Automobile rental | | | | C |
| | (3) | Truck, boat sales/rental | | | | C |
| | (4) | Gasoline station | | | | C |
| | (5) | Car wash establishment | | | | C |
| | (6) | Automobile service station - major and minor repair | | | | C |
| | (7) | Parking lot as a principal use | | C | C | P |
| | (8) | Parking deck or private parking garage as a principal use | C | C | C | C |
| (e) | <u>Commercial Entertainment/Recreation Uses:</u> | | | | | |
| | (1) | Indoor commercial entertainment facility including game room, bowling alley, skating rink, and movie theater | | C | C | C |
| | (2) | Private indoor and/or outdoor recreation including a health, tennis and racquet club | | C | C | C |
| | (3) | Dance studio, exercise class | | C | C | P |
| | (4) | Meeting room | C | C | C | C |
| | (5) | Banquet hall, party center | | C | C | C |
| | (6) | Mural | P | P | P | P |
| | (7) | Satellite dish receiving antenna | C | C | C | C |
| (f) | <u>General Commercial/Light Industrial Uses:</u> | | | | | |
| | (1) | Shops and studios for custom work of making articles to be sold at retail on the premises | | P | P | P |
| | (2) | Printing and publishing | | P | P | P |
| | (3) | Storage and warehousing of goods, self- storage | | | | C |
| | (4) | Research & Development, Limited | P | P | P | P |
| | (5) | Industrial Design | P | P | P | P |
| | (6) | Nursery and garden supply with accessory outdoor storage | | C | C | C |
| | (7) | Greenhouse | C | C | C | C |
| (g) | <u>Educational Facilities:</u> | | | | | |

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|-----|---|---|---|---|---|
| | (1) Elementary, junior and senior high school | C | C | C | C |
| | (2) College, university, trade and training schools, adult education facilities | C | C | C | C |
| | (3) Day care center, preschool, tutoring center | C | C | C | C |
| (h) | <u>Community Facilities:</u> | | | | |
| | (1) Public library, museum | C | C | C | C |
| | (2) Public safety facilities | C | C | C | C |
| | (3) Public service and maintenance facilities | C | C | C | C |
| | (4) Public parks and playgrounds | C | C | C | C |
| | (5) Outdoor community festival longer than 3 days | C | C | C | C |

Note to Schedule 1131.02:

(a) Shared Spaces must follow the regulations put forth in the Shared Spaces Manual, as may be updated from time-to-time.

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1131.04 LOT AREA AND WIDTH REGULATIONS.

Principal buildings and uses permitted in the C-1 Office, C-2 Local Retail, and C-3 General Commercial Districts shall be located only on a lot that complies with the lot area and lot width regulations set forth in Schedule 1131.04, unless otherwise specifically provided for elsewhere in this Zoning Code. Shared Spaces shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

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1131.06 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES.

In C-1 Office, C-2 Local Retail, and C-3 General Commercial Districts, each zoning lot shall maintain the minimum front, side and rear yards specified in Schedule 1131.06, except as otherwise provided for in this Chapter. Each yard shall be unobstructed by a principal use, including outdoor storage of goods, supplies and equipment as permitted in this Chapter, or a principal building, except as otherwise provided in this Zoning Code. Such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition so as to assure adequate screening of parking and loading areas, as well as absorption of rainfall. Shared Spaces shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

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1131.08 ACCESSORY USE REGULATIONS.

Accessory uses, buildings and structures permitted in a C Commercial District shall conform to the regulations of this section, and shall be landscaped and screened from view in accordance with Chapter 1166, as applicable.

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(c) Fences. Fences may be erected in any commercial district provided they comply with the following regulations:

(1) A fence located in a front yard shall have a maximum height of four (4) feet above ground level.

(2) In a rear or interior side yard, a fence shall have a maximum height of seven (7) feet above ground level.

(3) In a corner side yard, a fence shall have a maximum height of six (6) feet above ground, except as required by Section 1166.07 for lots adjacent to a residential district, or unless set back 15 or more feet from the public right of way, in which case a fence shall have a maximum height of seven (7) feet above ground level.

(4) Any fence within 25 feet of a public right of way and parallel or approximately parallel to such street shall be approved by the Architectural Board of Review. No chain-link fencing shall be permitted in front or corner side yard.

(5) No barbed wire fence shall be constructed or erected on any lot. Any nonconforming barbed wire fence shall be removed following five years from the adoption of the amendment to this Zoning Code which made such fence nonconforming.

(6) A fence which has the sole purpose of enclosing a seasonal outdoor activity shall be removed during the times of the year when the seasonal activity is not in operation if it causes a nuisance or limits safe travel along public sidewalks.

(7) A pergola or other freestanding structure may be permitted in front of a building, but not within the required front yard, subject to Architectural Board of Review approval.

(8) Any fence as part of a Shared Space shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

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1131.11 SUPPLEMENTAL REGULATIONS FOR OUTDOOR DISPLAY, SALES OF GOODS.

The sale or service of food outside of a building; or the display or sale outside of a building of house furnishings, merchandise or vehicles, shall only be permitted as specified below:

(a) The display of oil at a gasoline station or automobile service station;

(b) The display of automobiles and other rental vehicles as permitted in the C-3 District or for which a conditional use permit has been obtained pursuant to Chapter 1153.

(c) The sale or display of flowers, plants, shrubs and trees in the open in connection with a nursery flower mart, landscape business for which a conditional use permit has been obtained pursuant to Chapter 1153.

(d) An outdoor dining facility for which a conditional use permit has been obtained pursuant to Chapter 1153, except for a Shared Space, which shall follow the regulations permitted in the Shared Spaces Manual, as may be updated from time-to-time.

(e) An outdoor dining facility or outdoor sales of goods in conjunction with a duly authorized festival, except for a Shared Space, which shall follow the regulations permitted in the Shared Spaces Manual, as may be updated from time-to-time.

(f) The display of liquid fuel, such as propane, in conjunction with a principally or conditionally-permitted use.

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1131.14 C-2X MULTIPLE USE DISTRICT.

The C-2X Multiple Use District shall be governed by the following regulations:

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(f) Yard Requirements: Yard requirement shall be as set forth in the following table:

| <i>Yard (illustrations 1-4)</i> | <i>C-2X District Minimum(c)</i> | <i>C-2X District Maximum(c)</i> |
|--|--|--|
| Front* | 0 | 10(b) |
| Yards abutting a C or S District | | |
| Interior Side | 0 | No max. depth |
| Rear | 5 | No max. depth |
| Corner Side* | 0 | 15(b) |
| Yards abutting an MF District | | |
| Interior side and rear | 15 | No max. depth |
| Corner side* | 5 | 15(b) |
| Yards abutting an AA, A or B District | | |
| Interior side and rear | 20 | No max. depth |
| Corner side(a) | 10 | No max. depth |

Notes:

- (a) For the purposes of measuring front and corner-side yards in C-2X Districts, the yard shall be measured from the “built-to” line, which shall be a line running along the inner edge of the existing public sidewalk.
- (b) The Planning Commission may conditionally approve a front or corner side yard use, other than parking, that would result in a building being set back more than the maximum distance permitted from the “built-to” line.
- (c) Shared Spaces within the C2-X District shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

...

CHAPTER 1133

Park District

...

1133.02 PERMITTED USES.

In the Park District, land and structures shall be used or occupied, or structures shall be erected, constructed, enlarged, moved, or structurally altered only for a principal use, a conditional use in accordance with Title Seven, or an accessory use to a permitted principal or conditional use specified below and regulated herein.

(a) Principal Uses. The following uses are principal uses permitted by right in a Park District provided that all requirements of the Codified Ordinances and this Zoning Code have been met:

- (1) Public parks and playgrounds;
- (2) Public outdoor recreation facilities;
- (3) Shared spaces.

...

1133.04 MINIMUM YARD REQUIREMENTS.

For each permitted use located in a Park District, front, side and rear yards shall be provided in accordance with the following:

(a) Principal and accessory buildings and active recreational areas shall be located no less than fifty (50) feet from a front, side and rear lot line.

(b) Any playground structure or picnic shelter shall be located no closer to a front, side or rear lot line than a distance equal to its height.

(c) Off-street parking areas shall comply with Chapter 1161 and landscaped in accordance with Sections 1166.06 and 1166.07.

(d) Shared Spaces shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

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CHAPTER 1153

Supplemental Standards for Conditional Uses

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1153.03 SPECIFIC AREA, WIDTH AND YARD REGULATIONS.

(a) Schedule 1153.03 sets forth regulations governing lot area, lot width and minimum yard dimensions for principal and accessory buildings and parking areas for conditional uses that require area, width and yard regulations different from the district regulations. Additional standards and requirements pertaining to such uses are set forth in Section 1153.05.

(b) In addition, all parking areas adjacent to a single-family or two-family dwelling shall be landscaped in accordance with Section 1165.05.

Schedule 1153.03

AREA, WIDTH AND YARD REGULATIONS FOR CERTAIN CONDITIONAL USES

| | | | Min. Yard Dimensions (in feet) Buildings (d) Parking | | | | | |
|-----------------|--|----------------|---|-------|-----------|------------|------|-------------------|
| Conditional Use | | Min. Lot Area | Min. Lot Width (Feet) | Front | Side/Rear | Side/Front | Rear | See Also Section |
| (1) | PRD | --- | -- | -- | -- | -- | -- | 1155.01 - 1155.08 |
| (1a) | PDO Development District | 2 acres | | | | | | 1147.01 - 1147.09 |
| (2) | Place of worship | 1 acre | 150 | 50 | 50 | 50 | 10 | 1153.05 (a) |
| (3) | School facilities | 1 acre | 150 | 50 | 50 | 50 | 10 | 1153.05 (b) |
| (4) | Public libraries | 1 acre | 150 | 50 | 50 | 50 | 10 | --- |
| (5) | Public safety facilities | 1 acre | 150 | 50 | 50 | 50 | 10 | --- |
| (6) | Public and private parks and playgrounds, and public recreation facilities | None | None | 50(a) | 50(a) | (b) | (c) | 1153.05 (b) |
| (7) | Golf courses | None | None | 50 | 50 | 50 | 50 | --- |
| (8) | Cemetery | --- | -- | -- | -- | -- | -- | 1153.05 (c) |
| (9) | Parking lot for a permitted use not on the same zoning lot | None | None | N/A | N/A | (b) | (c) | --- |
| (10) | Accessory parking for a commercial use | --- | -- | -- | -- | -- | -- | 1153.05 (f) |
| (11) | Parking deck or private parking garage as a principal use | 20,000 sq. ft. | 100 | 30 | 15 | N/A | N/A | --- |
| (12) | Day care home | --- | -- | -- | -- | -- | -- | 1153.05 (d) |
| (13) | Day care center, preschool | --- | -- | -- | -- | -- | -- | 1153.05 (e) |
| (14) | (Intentionally omitted) | --- | -- | -- | -- | -- | -- | |
| (15) | Home occupation in an accessory building | --- | -- | -- | -- | -- | -- | 1153.05 (h) |
| (16) | Outdoor community festivals | --- | -- | -- | -- | -- | -- | 1153.05 (i) |
| (17) | Dormitories, fraternities, sororities | 20,000 sq. ft. | 100 | 30 | 15 | 30 | 15 | 1153.05 (j) |

| | | | | | | | | |
|-------|---|----------------|-----|-----|-----|----|-----|--------------------------|
| (18) | Lodging houses, boarding houses, convents, home for the aged, other congregate living and residential care facilities | 20,000 sq. ft. | 100 | 30 | 15 | 30 | 15 | 1153.05 (k) |
| (19) | Nursing home, intermediate and long-term care facility | 1 acre | 150 | 50 | 50 | 30 | 15 | --- |
| (20) | Special training schools and adult education facilities | --- | --- | --- | -- | -- | -- | --- |
| (21) | Hospitals | 2 acres | 200 | 50 | 50 | 30 | 15 | --- |
| (22) | Colleges and universities | 2 acres | 200 | 50 | 50 | 30 | 15 | --- |
| (23) | Drive-thru facilities | --- | -- | -- | -- | -- | -- | 1153.05 (l) |
| (24) | Automatic Teller Machine | --- | -- | -- | -- | -- | -- | 1153.05 (m) |
| (25) | Funeral homes and mortuaries in a C-2 or C-3 District | 20,000 sq. ft. | 100 | 50 | 50 | 15 | (b) | --- |
| (26) | Animal clinics, veterinary offices, or animal grooming facilities | --- | -- | -- | -- | -- | -- | 1153.05 (n) |
| (26A) | Animal day-care facilities and overnight boarding of animals | --- | -- | -- | -- | -- | -- | 1153.05 (bb) |
| (27) | Convenience retail in an office building | --- | -- | -- | -- | -- | -- | 1153.05 (o) |
| (28) | Catering | --- | -- | -- | -- | -- | -- | --- |
| (29) | Outdoor dining, except for Shared Space | --- | -- | -- | -- | -- | -- | 1153.05 (p) |
| (29A) | Shared Space | --- | -- | -- | -- | -- | -- | See Shared Spaces Manual |
| (30) | Dance studios, exercise classes and similar uses | --- | -- | -- | -- | -- | -- | 1153.05 (q) |
| (31) | Auto sales, new, (new and used) and auto rental | 20,000 sq. ft. | 100 | (b) | (b) | 15 | (b) | 1153.05 (r) |
| (32) | Auto sales, used | 20,000 sq. ft. | 100 | (b) | (b) | 15 | (b) | 1153.05 (s) |
| (33) | Truck, boat, sales/rental | 20,000 sq. ft. | 100 | (b) | (b) | 15 | (b) | 1153.05 (s) |
| (34) | Gasoline stations | 20,000 sq. ft. | 100 | (b) | (b) | 15 | (b) | 1153.05 (t) |
| (35) | Car wash establishment | 20,000 sq. ft. | 100 | (b) | (b) | 15 | (b) | 1153.05 (u) |
| (36) | Auto service-major and minor repair | 20,000 sq. ft. | 100 | (b) | (b) | 15 | (b) | 1153.05 (u) |
| (37) | (Intentionally omitted) | | | | | | | |
| (38) | Game rooms | --- | -- | -- | -- | -- | -- | 1153.05 (v) |
| (39) | Indoor commercial entertainment | --- | -- | -- | -- | -- | -- | --- |
| (40) | Private indoor/outdoor recreation | --- | -- | -- | -- | -- | -- | --- |
| (41) | Banquet hall, party center | --- | -- | -- | -- | -- | -- | --- |
| (42) | Satellite dish receiving antenna | --- | -- | -- | -- | -- | -- | 1153.05 (w) |
| (43) | Meeting room | --- | -- | -- | -- | -- | -- | 1153.05 (x) |
| (44) | Storage and warehousing of goods | --- | -- | -- | -- | -- | -- | --- |
| (45) | Research and testing laboratories | --- | -- | -- | -- | -- | -- | --- |

| | | | | | | | | |
|------|---|---------|----|-------|-------|-----|-----|--------------|
| (46) | Nursery and garden supply with accessory outdoor storage | --- | -- | -- | -- | -- | -- | 1153.05 (z) |
| (47) | Public indoor/outdoor entertainment, public indoor recreation | --- | -- | 50(a) | 50(a) | (b) | (b) | --- |
| (48) | Reduction in parking requirements | --- | -- | -- | -- | -- | -- | 1161.05 |
| (49) | Architecturally significant nonconforming signs | --- | -- | -- | -- | -- | -- | 1163.11 |
| (50) | Attached single-family dwelling unit (e) | --- | -- | -- | -- | -- | -- | 1153.05 (aa) |
| (51) | Chicken coop and run | --- | -- | -- | 10 | -- | 10 | 1153.05 (gg) |
| (52) | Commercial Renewable Energy Systems ("Solar Farms") | 2 acres | -- | 25 | 25 | -- | -- | 1153.05 (ff) |

Notes to Schedule 1153.03:

- (a) Playground structures and picnic shelters shall be located no closer to a front, side or rear lot line than a distance equal to its height.
- (b) Shall comply with the district regulations.
- (c) Shall comply with the parking regulations for multiple-family uses set forth in Section 1123.12(a).
- (d) Shall include principal and accessory buildings unless specified otherwise in this Zoning Code.
- (e) For the purpose of determining applicable lot area, width, and yard regulations, adjoining parcels containing attached single-family dwelling units and common areas shall be considered a single zoning lot. Any parcel on which an attached single-family dwelling unit is located shall have frontage on a public street.

...

1153.05 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

The following conditional use regulations are specific requirements pertaining to the location and maintenance of certain conditional uses and are in addition to the general criteria set forth in Chapter 1151 and the lot area, width and yard regulations set forth in Section 1153.03.

...

(p) **Outdoor Dining.** In C-1, C-2, C-2X and C-3 Districts, an outdoor dining facility may be conditionally permitted. An outdoor dining facility located on private property and having 25 or fewer seats may be approved by the Zoning Administrator; a facility with more than 25 seats shall require Planning Commission approval. Shared Spaces shall not be subject to these regulations, but, rather, shall follow the Shared Spaces Manual, as may be updated from time-to-time. In granting approval for an outdoor dining facility, except for a Shared Space, the following standards shall apply:

- (1) The facility shall only be used in conjunction with, and under the same management and exclusive control of, a restaurant located on the same or contiguous property.
- (2) The use shall not interfere with the flow of pedestrian traffic. The approving authority shall determine to what extent, if any, such use may encroach upon the public right-of-way, provided that an unobstructed walkway of a width specified in the conditional use approval is reserved for public passage. In no case shall the unobstructed walkway be less than six feet in width.
- (3) Before a conditional use permit is granted for the use, it shall be determined that the facility will not create an undue parking shortage within the district.

(4) Temporary stanchions with chains or ropes may be approved for the outdoor dining facility, the extent and nature of which shall be set out in the conditional use permit. Fencing shall be subject to regulations in Section 1131.08(c).

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CHAPTER 1161

Off-Street Parking and Loading Regulations

...

1161.03 NUMBER OF PARKING SPACES REQUIRED.

The required number of off-street parking spaces for each facility or use shall be determined by application of the standards noted in Schedule 1161.03. For a use not specified in Schedule 1161.03, the Planning Commission shall apply the standard for a specified use which the Commission determines to be most similar to the proposed use.

Schedule 1161.03

REQUIRED OFF-STREET PARKING SPACES (a)

| <i>Principal Building or Use</i> | | <i>Minimum Spaces Required</i> |
|--|--|--|
| (a) Residential Uses: | | |
| (1a) | Single-family dwellings with 2 or fewer bedrooms | 1 space for each dwelling unit (b) |
| (1b) | Single-family dwellings with greater than 2 bedrooms | 2 spaces for each dwelling unit (b) |
| (2) | Two-family dwellings | 2 spaces for each dwelling unit, of which not less than 0.5 spaces per dwelling unit shall be enclosed (c) |
| (3) | Townhouses | 2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed (b) |
| (4) | Multiple-family dwelling | 1 space for each dwelling unit |
| (5) | Senior citizen apartments | 1 space for each dwelling unit |
| (6) | Lodging house, boarding houses | 1 space for each bed |
| (7) | Dormitories, sororities and fraternities | 1 space for each 3 persons based on the maximum capacity as established in the Housing Code |
| (8) | Nursing homes | 1 space per 3 beds |
| (b) Office, Professional Service Uses: | | |
| (1) | Office, medical office, animal clinic and financial establishments | 1 space for each 300 sq. ft. of floor area. |
| (2) | Funeral homes, mortuaries | 1 space for each 50 sq. ft. of floor area in parlors or service rooms. |
| (3) | Hospitals | 2 spaces per room |
| (c) Retail/Service Uses: | | |
| (1) | Retail or business uses permitted in any C District, unless specific standards given below | 1 space for each 300 sq. ft. of floor area |
| (2) | Furniture and appliance; retail nursery garden supply, establishments | 1 space for each 500 sq. ft. of floor area |
| (3) | Restaurants; bars; taverns; night clubs | 1 space for each 300 sq. ft. floor area (outdoor dining area excluded) |
| (4) | Hotels and motels | 5 spaces plus 1 space for each sleeping room or suite |
| (5) | Shared Space | No minimum parking requirement |
| (d) Automotive Uses: | | |
| (1) | Auto sales; new and used, auto, truck, boat sales, rental facilities | 1 space for each 500 sq. ft. of floor area (indoor area only) |
| (2) | Gasoline stations | .5 spaces per pump +1 per 500 sq. ft. of accessory retail area |
| (3) | Car wash facilities | 1 space per bay plus sufficient area for stacking spaces |
| (4) | Automobile service stations - major and minor repair | 4 spaces per bay |
| (e) Commercial Entertainment/Recreation Uses: | | |

| | | | |
|-----|---------------------------------|--|--|
| | (1) | Bowling alleys | 2 spaces per each lane. |
| | (2) | Game rooms | 1 space for each billiard table or amusement device |
| | (3) | Skating rinks | 1 space per 200 sq. ft. of floor area |
| | (4) | Indoor movie theaters, auditorium and other public assembly places | 1 space for every 4 seats for first 400 seats then 1 space per 10 seats |
| | (5) | Golf course | 4 spaces per hole |
| | (6) | Tennis or racquet ball court | 2 spaces per court |
| | (7) | Indoor or outdoor swimming pools, public or private | 1 space per 200 sq. ft. of water area. |
| | (8) | Health, fitness, recreation club | 1 space for every 200 sq. ft. of exercise area, including locker room, and equipment room. |
| (f) | General Commercial Uses: | | |
| | (1) | Printing, publishing, storage and warehousing of goods | 1 space for each 800 sq. ft. of floor area. |
| | (2) | Research and testing laboratories | 1 space for each 400 sq. ft. of floor area. |
| (g) | Educational Facilities: | | |
| | (1) | junior high schools, elementary schools and kindergartens | 2 spaces per classroom +1 space per 15 seats in largest assembly hall |
| | (2) | Neighborhood high schools | 2 spaces per classroom |
| | (3) | Regional high schools | 5 spaces per classroom. |
| | (4) | Colleges, universities | 10 spaces for every classroom |
| | (5) | Day Care Centers, preschools and similar uses | 1 space for each staff person or employee plus a minimum of 2 pick-up/drop-off spaces |
| (h) | Community Facilities: | | |
| | (1) | Places of worship | 1 space for every 4 seats |
| | (2) | Community center, library, museum or similar public or private semi- public building | 1 space for every 4 seats or for each 300 sq. ft. of floor area, whichever is greater. |

Notes to Schedule 1161.03:

- (a) Unless modified by the Planning Commission, per Section 1161.05.
- (b) Parking spaces shall be enclosed, except as otherwise provided in Section 1161.051.
- (c) At least 0.5 parking spaces shall be enclosed, except as otherwise provided in Section 1161.051.

...

1161.13 EXCEPTIONS TO OFF-STREET PARKING REQUIREMENTS IN COMMERCIAL DISTRICTS.

(a) In the City's commercial districts, parking needs are predominantly met by the existence of significant amounts of on- and off-street public parking and, in some areas, large private parking areas serving multiple uses. This reduces the need for individual uses to provide their own dedicated off-street parking, as does the fact that many patrons of uses in these commercial districts arrive on foot or by public transportation. Further, a large number of small parking lots would be disruptive in these areas, in which safe and pleasant conditions for pedestrians are important assets. On the commercial-district parcels described in subsection (b) below, the following exceptions to the off-street parking requirements set out in Chapter 1161 shall apply:

- (1) New uses in existing buildings that would not result in a significant change of intensity relating to traffic and parking shall not be required to provide off-street parking.
- (2) New uses in existing buildings proposed to expand the gross floor area by twenty-five percent (25%) or less that would not result in a significant change of intensity relating to traffic and parking shall not be required to provide off-street parking.
- (3) The use of off-street parking for a Shared Space.

(b) The exceptions to the off-street parking requirements, as described in subsection (a) above, shall apply only to commercially zoned parcels.

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CHAPTER 1165

Additional Regulations Governing Uses

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(d) Additional Requirements for Yards. The following requirements for yards must be observed in all zoning districts:

(1) On lots fronting on two (2) nonintersecting streets, a front yard must be provided on both streets;

(2) Where a lot is occupied for a permitted use without any building or structure thereon, the front, side and rear yards required by this Zoning Code shall be provided and maintained between such use and the respective lot lines, except lots used for Shared Spaces, noncommercial gardens, or public playgrounds.

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1165.07 EXTERIOR LIGHTING REQUIREMENTS.

...

(b) Unshielded Lighting. The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, are prohibited, except on a temporary basis in areas where approved carnivals, fairs, approved outdoor dining or similar activities are held and only when such activities are taking place, or on a temporary basis for approved Shared Spaces.

CHAPTER 1166

Landscape Requirements

...

1166.015 SHARED SPACES.

Shared Spaces shall be exempt from the requirements of this Chapter, but shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

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MEMORANDUM

To: Mayor Seren
CC: William Hanna, Law Director
From: Eric Zamft, Director of Planning & Development
Date: August 18, 2023
Subject: Shared Spaces Program

The City prides itself on its many business districts. The City has for many years permitted outdoor dining—both on private property and within the public right-of-way—as a way to support the business community and enliven spaces for residents and visitors. However, beginning in March 2020, the COVID-19 pandemic forced us to re-examine places and spaces—how we interact with our neighbors and friends and how we work, live, and play.

On July 6, 2020, in response to the COVID-19 pandemic, Council, Resolution No. 83-2020, authorized a Temporary Expansion Area (“TEA”) Program for the creation or expansion of outdoor dining, entertainment and retail areas. In light of the COVID-19 guidelines and mandates imposed upon affected businesses through Orders issued by the Governor and State Department of Health, the TEA Program authorized business to use private property such as private parking lots, as well as City-owned property, streets and other public rights-of-way, to expand their facilities as a means to combat the financial loss to businesses whose operations were affected by said Orders. Resolution No. 83-2020 provided a sunset date of November 1, 2020 for the TEA Program. Due to the continuing negative impacts of the COVID-19 pandemic, by Resolution No. 131-2020, Council extended the TEA Program until December 31, 2021.

In 2020 and 2021, the City issued a number of TEA permits, including for a pilot “parklet” along Cedar Road as a tool to help businesses survive the COVID-19 health crisis. The pilot program was well-received. In 2022, a number of businesses inquired about the program, but, ultimately, were unable to complete the approval process. In 2023, the City of Cleveland Heights desires to create a permanent City-wide program (the “Shared Spaces Program”). Earlier this year, Council adopted Resolution 103.023, which authorized the Shared Spaces program to continue during 2023. In order to make the Shared Spaces Program permanent, the Codified Ordinances of the City of Cleveland Heights, including the Zoning Code, need to be amended.

The two (2) pieces of legislation codifies the Shared Spaces Program as a permanent program moving forward. Should Council desire to move forward with the legislation, the proposed Zoning changes must be referred to the Planning Commission, per Chapter 1119 of the Zoning Code.

Proposed: 09/18/2023

ORDINANCE NO. 150-2023(PD), *Second Reading*

By Mayor Seren

An Ordinance amending various sections of Chapters 110, 311, 351, 371, 521 and 1321 of the Codified Ordinances to facilitate a permanent Shared Spaces Program within the City; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the City of Cleveland Heights prides itself on its many business districts and has for many years permitted outdoor dining—both on private property and within the public right-of-way/on public property—as a way to support the business community and enliven spaces for residents and visitors; and

WHEREAS, beginning in March 2020, the COVID-19 pandemic forced all of us to re-examine places and spaces—how we interact with our neighbors and friends and how we work, live, and play; and

WHEREAS, on July 6, 2020, in response to the COVID-19 pandemic, Council, by way of Resolution No. 83-2020, authorized a Temporary Expansion Area (“TEA”) Program for the creation or expansion of outdoor dining, entertainment and retail areas; and

WHEREAS, in light of the COVID-19 guidelines and mandates imposed upon affected businesses through Orders issued by the Governor and Director of the Ohio Department of Health, the TEA Program authorized business to use private property such as private parking lots, as well as City-owned property, streets and other public rights-of-way, including on-street parking areas, sidewalks, and parklets to expand their facilities as a means to combat the financial loss to businesses whose operations were affected by said Orders; and

WHEREAS, the TEA Program was very well-received was therefore extended on several occasions in relation to the pandemic; and

WHEREAS, at the Mayor’s request, the City Administration developed a Shared Spaces Program and Manual in 2022-23 to guide the permitting and regulation of such facilities and spaces; and

WHEREAS, in 2023, Council adopted Resolution 103-2023 to authorize a Shared Spaces Program for the 2023 outdoor dining season through November 1, 2023, in accordance with the Shared Spaces Program and Manual, and now wishes to establish a permanent program (the “Shared Spaces Program”), necessitating amendments to the Codified Ordinances of the City of Cleveland Heights need to be amended; and

ORDINANCE NO. 150-2023(PD)

WHEREAS, those portions of the Zoning Code that are necessary to be amended are contained in Ordinance No. 127-2023 and are being reviewed per Chapter 1119 of the Zoning Code; and

WHEREAS, the portions of the Codified Ordinances that are not within the Zoning Code need to be amended as a separate legislation.

BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. This Council hereby introduces amendments to Chapters 110, 311, 351, 371, 521 and 1321 of the Codified Ordinances of the City of Cleveland Heights, as set forth in **Exhibit A** attached hereto.

SECTION 2. Notice of passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need for the introduction of the proposed zoning amendments to be effective at the earliest time possible so that said amendments can be timely considered and acted upon by the Planning Commission for the benefit of the City and its residents. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of the Council

ADDIE BALESTER
Clerk of Council

PASSED:
Presented to Mayor: _____ Approved by Mayor: _____

KAHLIL SEREN
Mayor

Exhibit A to Ordinance XX-2023
PROPOSED CODE AMENDMENTS:
SHARED SPACES

September 18, 2023

**PART ONE – ADMINISTRATIVE CODE
TITLE ONE – GENERAL PROVISIONS**

**CHAPTER 110
City Property Disposition**

...

110.05 OUTDOOR DINING ON PUBLIC PROPERTY.

The Mayor is hereby authorized to administratively approve requests for outdoor dining on sidewalks or other public right of way provided the following conditions are met:

(a) Such outdoor dining may only be conducted in conjunction with, and under the same management and exclusive control of, a restaurant located in a building contiguous to the public right of way upon which outdoor dining is proposed to be conducted.

(b) The outdoor dining shall not interfere with the flow of pedestrian traffic. At least five (5) feet of unobstructed sidewalk must be maintained, although more may be required in areas of high use.

(c) Outdoor dining shall be limited to no more than six tables and twenty-four chairs.

(d) No alcohol may be sold or consumed on the outdoor dining premises without the specific legislative authorization of this Council and the approval of the Ohio Department of Liquor Control.

(e) All agreements for outdoor dining shall be approved in writing by the Mayor, Director of Law, and Director of Planning and Development, and shall contain the following terms as well as others deemed necessary by the Mayor and Director of Law:

(1) The agreement shall set forth the hours of operation and the term of the agreement, which may be automatically renewable each season unless terminated by either party. A detailed description of the location of furniture and other improvements/objects shall be included.

(2) The agreement shall require the restaurant owner or other responsible party to keep the outdoor dining area clean and sanitary and to remove all tables and chairs each evening for storage.

(3) The agreement shall require the responsible party to indemnify and hold the City harmless from any liability or damages caused by the outdoor dining and to provide an insurance policy in an amount approved by the Director of Law with the City being named as an additional insured.

(4) The agreement shall provide that it may be terminated by the Mayor at any time without notice if he deems that the use is creating a nuisance or interfering with the use of the public right of way, or that the property is needed for municipal purposes.

(f) This section applies only to outdoor dining on public property, with outdoor dining on private property being governed by the provisions of the Zoning Code. Shared Spaces, whether on public or private property, shall be governed by the provisions set forth in the Shared Spaces Manual, as may be updated from time-to-time.

...

PART THREE – TRAFFIC CODE

TITLE THREE – STREETS AND TRAFFIC CONTROL DEVICES

CHAPTER 311 Street Obstructions and Special Uses

...

311.02 PARADES AND ASSEMBLAGES.

No person, group of persons or organization shall conduct or participate in any parade, procession or assemblage upon any street or highway, or block off any street or highway, park or any other public area, without first obtaining a permit from the Director of Public Safety, with the exception of Shared Spaces, which shall be governed by the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

Applications for such permits shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than five days before the time intended for such parade, procession or assemblage.

The permit may be refused or cancelled if the resultant conditions would unreasonably hinder the movement of traffic or would require the diversion of sufficient police officers or firemen so as to deprive the Municipality of normal police and fire protection, or would be reasonably likely to provoke disorderly conduct, create a disturbance or threaten the safety of residents, by reason of the number of persons to participate in such parade, the nature or subject matter of the parade, the area in which the parade will proceed or be located, and all other relevant factors.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the places of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied.

...

PART THREE – TRAFFIC CODE

TITLE SEVEN – PARKING

CHAPTER 351 Parking Generally

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351.04 MANNER OF PARALLEL PARKING.

...

(b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.

(2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space. The temporary elimination of an angled parking space that is located on a state route necessary to create a Shared Space shall be permitted as part of the Shared Spaces Program.

B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

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351.11 OBSTRUCTING LANE ACCESS TO PUBLIC BUILDINGS.

No person shall park or stand any vehicle or place any other obstacle in any lane, alley, privately owned public parking lot, driveway or service area, in such a manner as to obstruct the free passage of public safety vehicles or any other vehicle passing through or over such area, except for Shared Spaces, which shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

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PART THREE – TRAFFIC CODE

TITLE NINE – PEDESTRIANS, BICYCLES AND MOTORCYCLES

CHAPTER 371 **Pedestrians**

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371.05 WALKING AND JOGGING ON ROADWAYS.

- (a) Where a sidewalk is provided and its use is practicable, no pedestrian shall walk along and upon an adjacent roadway.
- (b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
- (c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
- (d) Except as otherwise provided in Sections 313.03 and 371.01, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(ORC 4511.50)

- (e) When a sidewalk is available for the purpose of walking, but is not adequate for the purposes of jogging, running or other similar pedestrian activities, a person may jog, run or perform a similar pedestrian activity upon the travelled portion of a roadway, in accordance with the provisions of this section.
- (f) A person using a roadway for the purpose of jogging, running or the performing of a similar pedestrian activity shall perform such activity as close as practicable under existing road conditions to the outside curb or the curbline of the roadway. Such person shall perform the activity only on the left side of the roadway.
- (g) A person using a roadway for the purpose of jogging, running or other similar pedestrian activity, shall yield the right of way to vehicles lawfully operating thereon, and to vehicles and pedestrians having the right of way at street intersections.
- (h) No person shall jog, run or perform similar pedestrian activities upon a street or highway during the period commencing one-half hour after sunset and concluding one-half hour before sunrise, unless such person shall wear reflective clothing and/or a reflective device sufficient to allow such person to be discernible at a distance of at least 500 feet to such person's front and rear.
- (i) For the Shared Spaces Program, the above shall be superseded by the regulations contained in the Shared Spaces Manual, as may be updated from time-to-time.

PART FIVE – GENERAL OFFENSES CODE

CHAPTER 521 **Health, Safety and Sanitation**

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521.05 PLAYING GAMES IN STREETS.

(a) No person shall fly a kite or play any game on any street, lane or alley, except as part of a Shared Space. However, nothing in this section shall prohibit the Safety Director from designating certain streets or sections thereof for limited periods of time for playground purposes under proper supervision.

(b) Whoever violates this section is guilty of a minor misdemeanor.

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521.07 UNLAWFULLY USING OR OBSTRUCTING FIRE HYDRANTS.

(a) No person, unless authorized by the City, or except in case of fire, shall tamper with, turn on, or use water from any fire hydrant, valve box, stop cock, pipe, apparatus or other fixture for supplying water, or in any way to use water therefrom for private use.

(b) No person shall in any manner obstruct any fire hydrant by placing or permitting to exist any material, article or equipment in front thereof, from the curb line to the center of the street, or to within five feet from either side thereof. Shared Spaces shall follow the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

PART THIRTEEN – BUILDING CODE

TITLE THREE – LOCAL PROVISIONS

CHAPTER 1321 **Fences**

1321.01 PERMIT REQUIRED; FEE.

- (a) No person shall construct any fence on a residential property without first obtaining a permit therefor from the Zoning Administrator and paying a fee of fifty dollars (\$50.00). No person shall construct any fence on a commercial property without first obtaining a permit therefor from the Zoning Administrator and paying a fee of eighty dollars (\$80.00).
- (b) The permit fee shall be doubled in those cases where a person constructs or starts to construct a fence without first obtaining a permit.
- (c) There shall be no fee for a fence in conjunction with a Shared Space.

1321.02 PLACEMENT; BARBED WIRE FENCES.

- (a) Fences shall be constructed or erected in compliance with the provisions of the Zoning Code. For any fence as part of a Shared Space, the regulations set forth in the Shared Spaces Manual, as may be updated from time-to-time, shall apply.
- (b) No person shall construct or erect any barbed wire fence except an industrial type whereby not more than three (3) strands of barbed wire may be placed on the top of a fence other than a barbed wire fence provided the strands are not less than seventy-two (72) inches above the ground and are canted or angled toward the property the fence surrounds.