

January 17, 2024

To: Mayor and Members of City Council

From: Sheryl M. M. Long, City Manager



202400210

Subject: Ordinance Modifying Chapters 1411 and 1441 of the Zoning Code of the City of Cincinnati to restrict the development of surface parking lots in the DD, "Downtown Development," zoning district and early termination of IDC No. 88.

Transmitted is an Ordinance captioned:

MODIFYING Chapter 1411, "Downtown Development Districts," of the Cincinnati Municipal Code by **AMENDING** the provisions of Sections 1411-25, "Location of Parking," and 1411-27 "Accessory Surface Parking," and by **ORDAINING** new Section 1411-32, "Temporary Surface Parking Facility Design Standards," and **REPEALING** Sections 1411-29, "Off-Site Parking," and 1441-13, "Temporary Parking Uses in Urban Renewal Areas," to restrict the development of surface parking lots in the DD, "Downtown Development," zoning district.

The City Planning Commission recommended approval of the proposed text amendments to Chapters 1411 and 1441 of the Cincinnati Zoning Code to restrict the development of surface parking lots in the DD zoning district and further recommend the early termination of IDC No. 88 at its January 5, 2024 meeting.

Summary:

In September 2022, Council Member Mark Jeffreys introduced legislation to amend certain zoning code provisions governing development in the DD, "Downtown Development," zoning district to study the potential impacts of surface parking lots and make recommendations for potential zoning code text amendments. On September 15, 2022, City Manager Sheryl M. M. Long directed the Department of City Planning and Engagement (DCPE) to conduct a zoning study and propose an Interim Development Control (IDC) Overlay District over the Downtown Development zoning district for the duration of the study. As a result of the zoning study, DCPE staff recommended to prohibit new surface parking lots, except to allow temporary parking lots for up to seven years. Additional landscaping requirements would be required for the temporary surface parking lots, including planting one tree for every four parking spaces, adding plant buffers to break up large parking lots, and applying heat reflective surfacing.


On January 5, 2024, The City Planning Commission voted unanimously to approve and forward the text amendment recommendations to City Council after considering the findings of the zoning study; the relationship of the proposed text amendments to the comprehensive plans of the city and of the affected community; and the effect of the proposed designation on the surrounding areas and economic development plans of the city.

The City Planning Commission recommended the following on January 5, 2024, to City Council:

ADOPT staff findings outlined on pages 5-9 of this report; and to

APPROVE the proposed zoning text amendments attached to this report as Exhibit C.

APPROVE the early termination of Interim Development Control Overlay District No. 88, "Surface Parking in the Downtown Development District," as an overlay district following the passage of the zoning text amendments.

cc: Katherine Keough-Jurs, FAICP, Director, Department of City Planning and Engagement 



City of Cincinnati

CHM

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An Ordinance No. _____

- 2024

MODIFYING Chapter 1411, “Downtown Development Districts,” of the Cincinnati Municipal Code by **AMENDING** the provisions of Sections 1411-25, “Location of Parking,” and 1411-27 “Accessory Surface Parking,” and by **ORDAINING** new Section 1411-32, “Temporary Surface Parking Facility Design Standards,” and **REPEALING** Sections 1411-29, “Off-Site Parking,” and 1441-13, “Temporary Parking Uses in Urban Renewal Areas,” to restrict the development of surface parking lots in the DD, “Downtown Development,” zoning district.

WHEREAS, in September 2022, Councilmember Mark Jeffreys introduced legislation to amend certain zoning code provisions governing development in the DD, “Downtown Development,” zoning district to restrict the development of surface parking lots (“Proposed Legislation”); and

WHEREAS, in response to the introduction of the Proposed Legislation, Council established an interim development control overlay district over the DD zoning district, effective as of September 21, 2022, to prevent the frustration of the Proposed Legislation’s purposes while the Department of City Planning and Engagement studied its impact and formulated recommendations on its adoption or modification; and

WHEREAS, at its regularly scheduled meetings on December 1, 2023, and January 5, 2024, the City Planning Commission received the results of the Department of City Planning and Engagement’s study, and the City Planning Commission recommended modification of the Proposed Legislation to permit the development of temporary parking lots as an interim step to the future development of property; and

WHEREAS, Council finds that surface parking lots in the DD, “Downtown Development,” zoning district (i) are a minimally productive land use that do not meaningfully contribute to economic output or the City’s tax base; (ii) adversely affect the public health by exacerbating heat-related illness and mortality by absorbing and retaining excess solar energy, raising surrounding ground and air temperatures, and worsening the urban heat-island effect in the Central Business District; and (iii) undermine the City’s long-term environmental sustainability and resilience by amplifying the harmful effects of extreme weather events, such as higher incidence of stormwater runoff, combined storm and sewer overflows, and waterway pollution; and

WHEREAS, Council further finds that zoning text amendments are necessary to improve public health outcomes and address and minimize the harmful effects of temporary surface parking lots through the adoption of green infrastructure, design, and practices recommended by the Green Cincinnati Plan (2023), including (i) the reduction of stormwater runoff to minimize combined storm and sewer overflows; (ii) the increase of tree canopy in the Central Business District to mitigate the impacts of extreme precipitation and temperature and to absorb greenhouse gas

emissions; and (iii) the promotion and enhancement of multi-modal and alternative energy transportation options and walkability throughout the Central Business District; and

WHEREAS, Council also finds that zoning text amendments restricting the development of surface parking lots in the DD, “Downtown Development,” zoning district will secure future development that is harmonious with the City’s vital economic and cultural center and will provide opportunities for the development of more productive land uses that will contribute meaningfully to the City’s economy and tax base; and

WHEREAS, Council additionally finds that zoning text amendments are necessary to establish greater restrictions for temporary surface parking facilities within certain areas of the Central Business District to discourage the introduction of incongruent land uses that negatively impact pedestrian safety and walkability and detract from the vibrant, high-density urban character of the City’s core business and cultural center; and

WHEREAS, a committee of Council held a public hearing on the zoning text amendments following due and proper notice pursuant to Cincinnati Municipal Code Section 111-1, at which it reviewed and considered the zoning text amendments; and

WHEREAS, the zoning text amendments are consistent with Plan Cincinnati (2012), including the “Sustain” goal to “[b]ecome a healthier Cincinnati” through the strategy to “[c]reate a healthy environment and reduce energy consumption” by reducing the City’s energy usage, improving air and water quality, and reducing sewer overflows to create a healthy environment” as described on page 182; and

WHEREAS, the zoning text amendments are also consistent with the Green Cincinnati Plan (2023), including (i) the “Mobility” focus area’s priority action to “embrace zoning reform that increases density near transit, reduces or eliminates parking requirements across the City, and minimizes the use of surface parking lots,” as described on page 121; and (ii) the “Resilience and Climate Adaptation” focus area’s strategy to “reduce extreme heat, overland flooding, landslides, and water pollution vulnerabilities by incentivizing, improving and increasing green infrastructure and other mitigating methods,” as described on page 140, as well as the priority action identified on page 141 to “[u]se heat reflective materials when appropriate (roads, parking surfaces, roofs, etc.)”; and

WHEREAS, Council finds the zoning text amendments to be in the best interests of the City and the public’s health, safety, morals, and general welfare; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That existing Sections 1411-25, “Location of Parking,” and 1411-27, “Accessory Surface Parking,” of the Cincinnati Municipal Code are hereby amended as follows:

§ 1411-25. Location of Parking Parking Facilities.

The DD zoning district is divided into the parking subdistricts depicted on Map 1411-23: Parking Subdistricts Overlay in Downtown Development Districts.

- (a) Parking garages are permitted in all DD parking subdistricts.
- (b) Surface parking facilities are prohibited in all DD parking subdistricts, except as authorized under Section 1411-27, “Temporary Surface Parking Facilities.”

~~The location of parking in all DD subdistricts varies according to Map 1411-23: Parking Subdistricts Overlay in Downtown Development Districts. Parking in each parking subdistrict may also vary by type as prescribed in Schedule 1411-25 below:~~

Schedule 1411-25: Parking Type – Downtown Parking Subdistricts

Parking Type	Parking Subdistrict			
	W	X	Y	Z
Accessory Surface Parking	No	Yes	Yes	Yes
Public Surface Parking	No	No	Yes	Yes
Parking Garage	Yes	Yes	Yes	Yes

§ 1411-27. Accessory Surface Parking, Temporary Surface Parking Facilities.

- (a) Temporary Surface Parking Facilities Permitted. Temporary surface parking facilities may be established and maintained for a period of two years following the issuance of a temporary surface parking facility permit provided they conform to all applicable laws, ordinances, and regulations, including without limitation the provisions of Section 1411-32.
- (b) Extension of Temporary Permits. The Zoning Board of Appeals may grant one single extension of a temporary surface parking permit (i) for an additional two-year period for temporary surface parking facilities located in Parking Subdistricts W and X, or (ii) for an additional five-year period for temporary surface parking facilities located in DD Parking Subdistricts Y and Z, upon finding:
 - (1) Bona-fide Plan. The applicant has a bona-fide development plan to establish a permitted use on the subject property; and
 - (2) Integral Use. The temporary surface parking facility is a necessary and integral component of the economic feasibility of the applicant’s bona-fide development plan; and
 - (3) Compliance with Laws. The temporary surface parking facility has been maintained in conformity with all applicable laws, ordinances, and regulations.

In reviewing an application for extension, the Zoning Board of Appeals shall conduct a hearing and issue a decision in the same manner as prescribed for the Zoning Hearing Examiner under Chapter 1443, Zoning Hearing Examiner Procedures; provided that the Zoning Board of Appeals may not grant an extension of time greater than the time prescribed herein. Any party with standing may appeal a final decision of the Zoning Board of Appeals issued in accordance with this Chapter to the Hamilton County Court of Common Pleas as allowed by Ohio Revised Code Chapter 2506 or other applicable law.

- (c) *Applications for Extension.* The application for extending a temporary surface parking facility permit shall be on forms prescribed by the Zoning Board of Appeals and shall include all the following materials:
- (1) *Conceptual Development Plan.* Preliminary development plans showing, at minimum, the location and arrangement of proposed structures, building footprints and setbacks, schematic floor plans, exterior elevations, and proposed land uses. The plans shall be prepared by a registered architect or professional engineer and drawn to an architectural or engineering scale.
 - (2) *Development Statement and Timeline.* A statement and all pertinent documentary proof and credible evidence concerning the applicant's proposed development plan, including without limitation the following:
 - (i) *Narrative.* A description of the proposed development; and
 - (ii) *Development Forecasts.* Projected deadlines, milestones, and timelines concerning the design, financing, permitting, and construction phases of the proposed development; and
 - (iii) *Economic Feasibility.* Development pro forma, budgets, and evidence of commitments from lenders, investors, and requested/secured economic development incentives for development financing, if any; and
 - (iv) *Legal Feasibility/Control.* Documentation demonstrating the applicant's control of the subject property and ability to effectuate the proposed development; and
 - (v) *Other Information.* Such other information as required by the Zoning Board of Appeals to inform its decision.
 - (3) *Affidavit.* An affidavit attesting to the truth and accuracy of all information accompanying the application and the applicant's intent and capacity to diligently pursue and implement the proposed development to completion.
- (d) *No Further Extensions.* No temporary surface parking facility permit shall receive more than one extension, and no new temporary surface parking facility permit may

be issued for a property within five years of the expiration of a temporary surface parking permit concerning the property.

- (e) *Security Required.* No permit authorizing the construction or establishment of a temporary surface parking facility shall issue until the property owner or an authorized agent thereof has submitted a performance bond or guaranty in the substance and form prescribed by and deemed satisfactory to the City Manager to ensure sufficient funding to complete all work necessary to satisfy the requirements of Section 1411-51 upon the expiration of the temporary surface parking facility permit. The amount of such bond shall be set at 125 percent of the estimated cost of the improvements necessary to comply with Section 1411-51.

- (f) *Permit Expiration.* Upon the expiration of a temporary surface parking facility permit, the owner or person-in-control of the subject property shall cease operation of the parking facility and (i) shall establish a permitted use on the property or (ii) cause the property to conform to the landscaping requirements of Section 1411-51. If the owner or person-in-control fails to bring the subject property into compliance within this provision within 180 days following the expiration of the temporary surface parking facility permit, the City Manager or the City Manager's designee is authorized to draw upon the performance bond or guaranty provided in accordance with subsection (e) and proceed to complete all work necessary to cause the property to conform to the landscaping requirements of Section 1411-51.

~~Accessory surface parking must be located within 200 feet of the building that it is intended to serve and must be for the exclusive use of the occupants and visitors of that building.~~

Section 2. That new Section 1411-32, "Temporary Surface Parking Facility Design Standards," of the Cincinnati Municipal Code is hereby ordained to read as follows:

§ 1411-32. Temporary Surface Parking Facility Design Standards.

In addition to applicable regulations prescribed in Chapter 1425, "Parking and Loading," all temporary surface parking facilities in DD subdistricts shall comply with the minimum landscaping and design requirements set forth below. If any requirements set forth in this section conflict with any requirements or standards set forth in Chapter 1425, "Parking and Loading," the standards and requirements set forth herein shall govern and control.

- (a) *General Landscaping Requirements.*
 - (1) *Trees.* All temporary surface parking facilities shall provide one tree for every four parking spaces arranged and dispersed throughout the perimeter landscape buffer area and interior landscaped islands and peninsulas, with at least one tree planted per 35 linear feet throughout the entirety of the perimeter landscape buffer area.

All trees shall have a minimum size at the time of planting as follows:

- (a) Two-inch caliper for a deciduous tree; and
 - (b) Four-foot height for a conifer or evergreen tree.
- (2) **Ground Cover.** Plant-based ground cover appropriate to the surface conditions of the area must be installed throughout the perimeter landscape buffer area and interior landscaped islands and peninsulas. Grass shall be the default landscaping material.
- (3) **Plant Maintenance Standards.** All plants shall be maintained in a healthy condition and shall be replaced with new plant materials as needed to ensure continued compliance with landscaping requirements. Landscaping and screening plants that die shall be replaced during the current or the following planting season.
- (b) **Perimeter Landscape Buffer Area.**
- (1) **Width.** All temporary surface parking facilities shall provide a landscape buffer area separating the parking facility from adjoining streets. The buffer area shall measure at least five feet in width and be located within a six-inch-high, poured-in-place concrete curb landscaped with plant material. The buffer area shall not be paved except for approved walkways, bikeways, driveways, and other approved amenities or site elements.
 - (2) **Screening.** All portions of the perimeter landscape buffer area that abut a public right-of-way, other than approved entrances and exits, shall provide screening consisting of a solid concrete or masonry wall or wrought-iron or other high-quality decorative metal fence between three and four feet in height, as illustrated in Figure 1411-31-A. A wrought-iron fence or other high-quality decorative metal fence up to six feet in height or constructed on top of the wall for a combined wall and fence height of up to six feet may be constructed with the prior approval of the Zoning Administrator.
- (c) **Required Surface for Parking and Circulation Areas.** The surface of any parking area, including but not limited to parking, loading, and circulation areas, shall be designed to prevent stormwater runoff into the public right-of-way and shall be improved with asphalt, concrete, permeable pavers, or other hard surface approved by the Zoning Administrator. In Parking Subdistricts Y and Z, all impervious asphalt or concrete surfaces shall be treated with a pavement coating designed to reflect solar radiation with an initial solar reflectance of twenty percent or greater.
- (d) **Facilities Larger than One-Quarter Acre.** All new temporary surface parking facilities larger than one-quarter acre (i.e., 10,890 square feet) shall conform to the following standards:

- (1) No parking area within a temporary surface parking facility shall exceed one-quarter acre (i.e., 10,890 square feet) in size. To conform to this requirement, larger parking areas shall be divided into smaller parking areas by one or more landscape islands or peninsulas contained within and dispersed throughout the interior of the parking lot.
- (2) All interior landscaped islands and peninsulas shall contain plant material and plant-based ground cover within six-inch-high, poured-in-place concrete curbs, and at least one of every four trees required by subsection (a)(1) shall be located within the interior landscaped islands and peninsulas.
- (3) Landscaped islands and peninsulas need not be uniformly spaced but shall provide a minimum separation of 15 feet between smaller parking areas.

Section 3. That existing Sections 1411-29, "Off-Site Parking," and 1441-13, Temporary Parking Uses in Urban Renewal Areas," of the Cincinnati Municipal Code are hereby repealed.

Section 4. That Interim Development Control District No. 88, "Surface Parking in the Downtown Development zoning district," shall terminate immediately following the time at which this ordinance takes effect.

Section 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strike through.