

ORDINANCE 2021 - 3

AN ORDINANCE AMENDING TITLE FIVE - CHAPTER 1135 [SPECIAL PERMITS] OF THE PLANNING AND ZONING CODE OF THE CODIFIED ORDINANCES OF THE CITY OF PARMA HEIGHTS.

WHEREAS, the Council is desirous of amending Chapter 1135 [Special Permits] of the Codified Ordinances to update Title Five - Chapter 1135 of the Planning and Zoning Code; and

WHEREAS, the said proposal has been properly submitted to the Municipal Planning Commission for its approval and report, which Commission after due consideration and public hearing thereon has submitted its report to Council as hereinafter set forth; and

WHEREAS, notice of public hearing before this Council on said proposed amendment has been duly published, and pursuant thereto a full public hearing thereon has been had as prescribed by law; and

WHEREAS, it is the opinion of this Council that the health, safety and convenience, comfort, property and general welfare of this community will be preserved and furthered by the adoption of the said amendment will enhance opportunities for future development in the city.

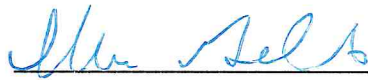
NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1. Chapter 1135 [Special Permits] of Title Five of the Codified Ordinances [Planning and Zoning Code] shall be amended and shall be captioned as Chapter 1135 [Conditional Use Permits], and shall read as set forth in Exhibit A, which is attached to this Ordinance.


Section 2. Chapter 1135 of the Parma Heights Codified Ordinances, as it has heretofore existed is repealed.

Section 3. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. This Ordinance shall be in effect from and after the earliest period provided by law.

PASSED: 1-25-2021   
PRESIDENT OF COUNCIL

ATTEST: Florence C. Bohdan 1-25-2021  
CLERK OF COUNCIL APPROVED

FILED WITH THE MAYOR: 1-25-2021   
MAYOR

## EXHIBIT A

### CHAPTER 1135 Conditional Use Permits

1135.01	Conditional Use Permit Required.	1135.06	Decision.
1135.02	Designation As A Conditional Use.	1135.07	General Criteria For Conditional Uses.
1135.03	Uses classified as Conditional Uses in all districts.	1135.08	Terms And Duration Of Approval.
1135.04	Conditional Use Permit Application.	1135.09	Revocation Of Conditional Use Approval.
1135.05	Public Hearing And Review By Planning Commission.	1135.10	Similar Uses.

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#### 1135.01 CONDITIONAL USE PERMIT REQUIRED.

When a proposed use is permitted in a zoning district as a conditional use as set forth in the district regulations or in Section 1135.03, a conditional use permit is required and the application for such conditional use permit shall be submitted and reviewed according to the following review procedures.

#### 1135.02 DESIGNATION AS A CONDITIONAL USE.

- a) Certain types of uses are classified as conditional uses because of their uncommon or unique characteristics, infrequency of occurrence, large area requirements, or potential for significant impact on a particular district. Consequently, the conditional use procedures call for a more flexible and equitable procedure for properly accommodating such activities in the community. The forces that influence decisions regarding the nature, magnitude and location of such types of land use activities are many and varied, depending upon functional characteristics, competitive situations, and the availability of land. The purpose of this section is to provide controllable and reasonably flexible requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provisions for the health, safety, convenience and general welfare of the City's inhabitants.
- b) In order to accomplish such a dual objective, this chapter sets forth a review procedure that enables a more detailed consideration of each conditional use. The review considers the proposal in terms of existing zoning and land use in the vicinity of the proposed use; the design, size, operation, processes and equipment employed, and intensity of the proposed use; the impacts of the proposed use at the proposed location on the public health, safety, convenience, comfort, prosperity and general welfare, including traffic generation and movement, the amount and kinds of public facilities and services required; and whether and to what extent all appropriate feasible steps have been taken by the permit applicant to minimize or mitigate any adverse impacts of the proposed use.
- c) Review of this information by the Planning Commission is required to ensure that each proposed conditional use is consistent with the intent and objectives of the particular district in which it is to be located.

#### 1135.03 USES CLASSIFIED AS CONDITIONAL USES IN ALL DISTRICTS.

In addition to uses specifically listed in a particular district as conditional uses, uses that may be authorized as a conditional use in any district pursuant to this Chapter include churches, schools, Municipal buildings, playgrounds and parks, public utilities and such other uses of a public or civic nature.

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### 1135.04 CONDITIONAL USE PERMIT APPLICATION.

An application for a conditional use permit shall be filed with the Planning Commission on a form prescribed by the Commission, accompanied by an application fee as established by City Council.

- a) The application for a conditional use permit shall include the following items:
  - 1) A development plan and associated documentation as required in Section 1133.09.
  - 2) A description of all uses proposed for the development, the location, extent and characteristics
  - 3) A statement or diagram showing compliance with any use-specific requirements specified in Chapter 1195.
  - 4) Any other material and/or information as may be required by the Planning Commission or Council to fulfill the purposes of this section of the Zoning Ordinance and to ensure that the application is in compliance generally with the ordinances of Parma Heights.
- b) The Chief Building Official may waive certain submittal requirements in order to reduce the burden on the petitioner and to tailor the requirements to the information necessary to review a particular petition. The Chief Building Official may waive such requirements upon finding that the project size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver. Any such waivers shall be authorized in writing and retained in the project file.
- c) Copies of the application shall be distributed by the Planning Commission to the Departments of Public Safety and Public Service.

### 1135.05 PUBLIC HEARING AND REVIEW BY PLANNING COMMISSION.

- a) No later than ten (10) days prior to the date set for the hearing on the application, each department to which the application has been referred shall file a written report thereon with the Planning Commission setting forth the recommendations for changes in the proposed use as submitted and conditions for approval, if any, necessary to bring such proposed use into compliance with any applicable ordinance.
- b) The Planning Commission shall hold one (1) public hearing to review and consider the application. The public hearing shall be scheduled within forty-five (45) days following acceptance of a complete application and after the notice required by law has been provided.
- c) The Planning Commission shall review the proposed conditional use as presented on the submitted plans and specifications and consider the written reports and public comments made during the public hearing, to determine:
  - 1) Whether the proposed use is appropriate and in keeping with the purpose and intent of this Planning and Zoning Code;
  - 2) Whether the development plan for the proposed conditional use complies with the development plan review criteria set forth in Section 1133.10, as applicable;
  - 3) Whether the establishment and operation of the proposed use complies with the general criteria established for all conditional uses in Section 1135.08 and any specific requirements established for that particular use set forth in Chapter 1195, Use-Specific Standards in this Planning and Zoning Code and any additional requirements in the Parma Heights Codified Ordinance pertaining to the proposed use, such as but not limited to the Business Code; and
- d) The Planning Commission may require additional plans and documents further clarifying the nature and extent of the use or any aspect of the application.

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### 1135.06 DECISION.

- a) Within thirty (30) days following the public hearing on the application, unless an extension of this time is agreed to by the applicant, the Planning Commission shall take action on the application for a conditional use permit and transmit its action to City Council.
  - 1) Approval. The Planning Commission may approve or approve with conditions the application for a conditional use permit.
  - 2) Denial. The Planning Commission may deny the application for a conditional use permit. If the Planning Commission denies the application, the application process ends. Disapproval of the application for a conditional use permit shall include a statement of the reasons for the denial.
  - 3) Failure of the Planning Commission to act within the time, or an extended period as may be agreed upon, shall at the election of the applicant be deemed a denial of the application.
- b) If the Planning Commission approves the application, the Commission shall, within a reasonable time after the conclusion of the public hearing, transmit the application to the City Council for the Council's confirmation.
- c) Confirmation by City Council. City Council shall: confirm the decision with or without modifications or conditions; refer the application back to the Planning Commission for further study; or deny the conditional use permit, within 60 days after receipt of the Planning Commission's decision, or its failure to act as provided above.
- d) All conditions imposed upon any conditional use approval, with the exception of conditions made applicable to such approval by the terms of this Zoning Code, shall be set forth expressly in the resolution granting the conditional use permit.
- e) In the event that a permit for a conditional use is granted by the Council subject to conditions, the grantee shall, in writing within ten (10) days following such Council action, acknowledge such approval and unconditionally accept and agree to such conditions

### 1135.07 GENERAL CRITERIA FOR CONDITIONAL USES.

A conditional use, and uses accessory to such conditional use, shall be permitted in a district only when specified as a conditional use in such district, and only if such use conforms to the following criteria. Furthermore, the Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that:

- a) The conditional use in the proposed location will be harmonious and in accordance with the purpose, intent and basic planning objectives of this Planning and Zoning Code and with the objectives for the district in which located;
- b) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;
- c) The conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;
- d) The proposed building or use will not result in the destruction, loss, or damage of any feature determined by the Planning Commission to be of significant natural, scenic, or historic importance
- e) The hours of operation of the proposed use are similar to a use permitted in the district.
- f) The conditional use will not be hazardous or disturbing to the existing and future use and enjoyment

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- of property in the immediate vicinity for the uses permitted, nor substantially diminish or impair property values within the neighborhood;
- g) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - h) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
  - i) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets;
  - j) The establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools;
  - k) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible;
  - l) The design and arrangement of circulation aisles, parking areas, and access drives shall be in compliance with the regulations set forth in Chapter 1191.

### 1135.08 TERMS AND DURATION OF APPROVAL.

- a) Conditional use approval shall authorize a particular conditional use on the specific parcel for which it was approved. Approval of a conditional use, pursuant to this Chapter, shall be valid only for the use and the operation of such use as specified when granted by the Planning Commission. The breach of any condition, safeguard, or requirement shall constitute a violation of this Planning and Zoning Code.
- b) A conditional use permit issued pursuant to this Chapter shall be valid only to the applicant to whom the permit is issued, unless the new owner agrees to all conditions, safeguards and requirements in the conditional use permit and a transfer of such permit is approved by the Chief Building Official.
- c) The conditional use approval shall expire six months from the date of enactment, unless:
  - 1) In the case of new construction, work upon the structure shall have begun above the foundation walls;
  - 2) In the case of occupancy of land, the use has commenced;
  - 3) As otherwise specifically approved by the Planning Commission at the time the conditional use approval is granted; or
  - 4) The Chief Building Official grants an extension for good cause shown, upon the request of the applicant.
- d) A conditional use permit may be considered abandoned and void if, for any reason, the conditional use is not conducted for more than six months.

### 1135.09 REVOCATION OF CONDITIONAL USE APPROVAL.

A conditional use permit may be revoked if the established conditions for approval are violated. The Chief Building Official is responsible for advising the Planning Commission of any violations, and the Planning Commission may then recommend to City Council that it revoke the conditional use permit.

### 1135.10 SIMILAR USES.

Within each zoning district established by the Planning and Zoning Code and amendments thereto, uses of land or structures, which are compatible with each other, are permitted in the district. To the extent that new types of uses are created and are not addressed by this Planning and Zoning Code, this section provides the procedure by which the Planning Commission may make a determination that a new use is similar to a use permitted in a district.

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Parma Heights

PROPOSED Chap 1135 Conditional Use Permits

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- a) Determination. A proposed use may be permitted as a similar use when the Planning Commission determines that such proposed use is in compliance with the following provisions:
- 1) The proposed use is not prohibited in any other district;
  - 2) The proposed use is not listed as a permitted building or use in any other district;
  - 3) The proposed use conforms to and is consistent with the purpose statement of the proposed district more appropriately than in any other district;
  - 4) The proposed use is of the same general character as the permitted uses in the district to which it is proposed or is similar to a specific use permitted in that district.
- b) Assignment to Districts. If the Planning Commission approves the proposed similar use, then the similar use shall be added to those districts that allow the principal or conditional use that is most similar, as determined by the Planning Commission.

\*\*\* End of Chapter \*\*\*