

City of Oxford
Community Development Department
STAFF REPORT
Planning Commission

Case # PC-02-2013

Date – February 12, 2013

APPLICATION

Applicant: City of Oxford
Action Request: **PC-02-2013 ZONING CODE TEXT AMENDMENTS** to Amend Chapter 1141 Accessory, Temporary, Supplementary and Environmental Regulations, Specifically Temporary Sales, Roadside Stands or Transient Vendors, Mobile Food Carts and Vendors; and, Chapter 1143.10 Uptown District (UP) Regarding the Sidewalk Use Permit, **City of Oxford, Applicant**

DESCRIPTION

Chapter 1141 went through a major overhaul in 2011, to address many issues staff had dealt with over the years.

Several issues came to light in relation to transient vendors in residential and the Uptown districts, specifically charitable and community events sanctioned under Codified Ordinance Chapter 735.01. Literal interpretation of the temporary regulations prohibited any charitable/community event from taking place on private property, which might not have been the intent of City Council.

Therefore, some modifications to the Zoning Code will make exceptions for those events under the purview of Chapter 735.01. Additionally, these modifications will clean up the intent of the code as well.

ZONING CODE

The attached text amendment illustrates changes to Chapter 1141 as a result of recent Planning Commission Work Session meetings.

COMPREHENSIVE PLAN

Since the proposed changes are to correct inconsistencies between various Codified Ordinances and clarify the intent of the Zoning Code, reference made to the Comprehensive Plan was not specifically provided.

AGENCY REVIEWS

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	No comments received
Fire:	No comments received
Engineering:	No comment
Econ. Dev.	No comments received

DECISION CRITERIA

A copy of the Text Amendment Decision Criteria is attached.

ANALYSIS

The issue of charitable/community events were brought forth by the Economic Development Director, as he has been involved with many community events in and around the Community. It appears that there were some inconsistency between various chapters of the Codified Ordinance in relation to the public right-of-way application for charitable and community events. The Zoning Code only deals with the use of private property; it is quite common to prohibit non-residential activities in residential districts. It is also not uncommon to allow commercial activity to spill over onto the public right-of-way, particularly in the core business district.

It may not be the intent of City Council to limit charitable and community events to take place in this Community; hence, there are specifics of regulations for the event organizers to follow. In order to eliminate any conflict or misinformation all together, it is critical to have all the relevant sections of the Codified Ordinance be consistent. Therefore, staff has provided amended language to allow the City Manager's Office to review and approve these types of events.

Additionally, changes are also included to clarify the intent of the Zoning Code related to Uptown District Sidewalk sales that only permit the same commercial activity as the same principal use on the first floor of the principal structure, so there is no ambiguity in reviewing the regulations.

Other minor changes are shown in yellow bold. They are not considered as major changes, but just to be consistent and allow for cross-referencing.

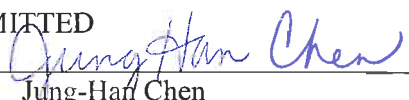
With the proposed changes in the Temporary Vendors section, the Economic Development Director will need to work with other departments to make changes to those Codified Ordinances that will not come before the Planning Commission, but would be necessary to bring those changes in the same time as this amendment goes before the City Council for consideration.

RECOMMENDATION

Staff recommends that the Commission recommend to Council for the adoption of these changes.

SUBMITTED

BY:


Jung-Han Chen

Community Development Director

DATE: January 25, 2013

ATTACHMENT

(c) Planning Commission and Council Review. The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall also consider the Planning Commission recommendation.

If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

- (1) Decision standards. A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls.

Text Amendments

- A. The proposed amendment will make the Code conform more closely to the Comprehensive Plan.
- B. The proposed amendment will improve the public health, safety, and general welfare of Oxford.
- C. The proposed amendment will clarify the intent of the Code.
- D. The proposed amendment will better implement the intent of the Code.
- E. The proposed amendment will improve enforcement of the Code.

1141.01 ACCESSORY REGULATIONS

(c) Accessory Use Provisions for All Zoning Districts

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- (5) Home Occupations: A home occupation does not require a zoning permit. If the Zoning Administrator determines that a business is operating in a residential or commercial district and that it does not meet the regulations of this section, the property owner of the property on which the business is operating shall be guilty of a violation of the Zoning Code. A home occupation shall:
- A. Have person(s) residing in the premises engaged in the business activity.
 - B. Be conducted entirely within an existing dwelling unit and/or one enclosed accessory structure.
 - C. Occupy a maximum of 25 percent of the floor area of the residence and/or enclosed accessory structure, including all operations and storage.
 - 1. Attached garage as well as unfinished basements or attic areas shall not be counted towards the total floor area of the dwelling unit. In situations where there are two or more dwelling units attached, the calculation of the total floor area shall be limited to the area of the dwelling unit in which the operation will be located.
 - 2. Such accessory structure shall not be utilized for a home occupation if it is the required parking space for the principal use.
 - D. Home Occupations located in the R1A, R1B, RO and GB zoning districts are permitted to have two (2) non-resident employees, however, no more than one non-resident employee is permitted on the premises at one time. One (1) non-resident employee is permitted in the R1MS, R2A, R2MS, R3, **R4** and R3MS zoning district.

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1141.02 TEMPORARY REGULATIONS.

- (a) Purpose. Temporary uses shall be permitted in applicable zone districts by the grant of a Zoning Permit issued by the Zoning Administrator in accordance with the requirements of this section. Failure to obtain a zoning permit shall be a violation of this Ordinance.
- (b) General Provisions.
- (1) The duration of the temporary period is stated hereinafter, provided, however, renewal of such permit may be requested.
 - (2) Temporary uses shall be subject to all site development regulations of the applicable zoning district.
 - (3) No required off-street parking space(s) shall be occupied by the temporary use.
- (c) Permitted Temporary Uses. Permits shall be required, unless otherwise exempted, for the following temporary uses, provided that they meet these requirements:

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- (13) Temporary Sales, Roadside Stands or Transient Vendors.
- A. Temporary or seasonal ~~merchandise sales~~ **commercial activities**, such as book **sales/purchases**, mattress sales, jewelry **sales**, art **sales**, craft, rug and or food **sales** products may be sold conducted outdoors **only on private property** in the General Business and Light Industrial Zoning Districts. **Commercial activities in right of ways are prohibited in accordance with Section 735.01.**
 - B. Such activities shall be placed in such location that will not interfere with access drives into or within the site, nor will reduce space for required off-street parking facilities.
 - C. Such facilities and all display items shall maintain the underlying zoning districts front yard setback from all adjacent thoroughfare rights-of-ways so as not to impede traffic or affect sight visibility in and out of a parking area.

- D. A maximum of one (1) twenty foot by twenty (20' x 20') tent or awning is permitted per vendor.
 - E. All tables, chairs and merchandise shall be secured within the tent upon the close of the operation hours.
 - F. Merchandise is prohibited from being sold directly out of a semi-trailer, box truck, moving van or other vehicle.
 - G. One (1) sign per vendor, not to exceed 30 sq. ft., may be displayed at their respective stand and are subject to the Temporary Sign Regulations in Section 1151.06 and the Vehicle Management Section 1149.05(c)(3).
 - H. Permits will be issued for a maximum of 14-days per vendor and per property, per calendar year.
 - 1. Proof of approval from the land owner must accompany the application.
 - 2. Proof of current vendors license in accordance with Chapter 705 of the Oxford Codified Ordinance.
- (14) **Vendors & Mobile Food Carts & Vendors.**
- 1. **Vendors & Mobile Food Carts & Vendors are specifically prohibited in any Residential district and the Uptown District unless approved by permit from the Office of the City Manager as part of a Charitable or Community event as defined in Section 735.01.**
 - 2. **Zoning Districts categorized as Residential are listed in Section 1133.**
 - 2.3. **Vendors & Mobile Food Carts & Vendors are also subject to Sections 337.01, 351.17, 705.02, 705.03, Chapter 729 and 735 of the City of Oxford Codified Ordinance.**
- (15) Portable Storage Containers- Containers designed for the temporary storage of property that can be moved by truck or trailer (including intermodal storage units).
- A. No zoning certificate is required if portable storage containers are to be placed on the premise no more than seven (7) days. The Zoning Administrator may permit any portable storage container to be placed on a property for up to thirty (30) days, provided the property owner has an active building permit or has demonstrated the need. An additional fourteen (14) day extension may be granted provided the property owner demonstrates extenuating circumstances.
 - B. Any portable storage container must be located on a driveway or other hard surfaced area. Portable storage containers shall be a minimum of eight (8) feet from the back of the curb and shall not extend onto the sidewalk.
 - C. Calamity Exception. If the portable storage container is being used to store personal property as a result of a major calamity (e.g. fire, flood or other event where there is significant property damage), the City Manager may extend the time period allowed in subsection A. above.

1141.04 ENVIRONMENTAL REGULATIONS.

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious, otherwise objectionable conditions that could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are taken to reduce dangerous and objectionable conditions to acceptable limits as established by the following requirements.

- (a) Air Pollution. Air pollution shall be subject to the requirements and regulations established by the Ohio Environmental Protection Agency, the Regional Air Pollution Control Agency, and the United States Environmental Protection Agency.
- (b) Erosion and Drainage.
 - (1) No erosion by either wind or water shall be permitted that will have a noticeable adverse impact on neighboring properties.

- (2) The Oxford Engineering Division as part of the zoning permit review process shall review plans for proposed surface drainage **according to the City of Oxford Storm Water Management Design Manual.**
- (c) Fire and Explosion Hazard. Adequate safety devices shall be provided at any point where there are activities involving burning or storage of flammable or explosive materials. Adequate safety devices against the hazards of fire and explosion and adequate fire fighting and fire suppression equipment and devices, standard in the industry, shall be provided. Otherwise, burning of waste materials in open fire is prohibited.
- (d) Hazardous Materials and Electrical Disturbance. No activities shall be permitted which utilize hazardous, fissionable or radioactive materials if their use results at any time in the release or emission of any such materials into the atmosphere, the ground, or sewerage systems, and no activities shall be permitted that emit electrical disturbance affecting the operation at any point of any equipment other than that of the creator of such disturbances.
- (e) Noise. No activity on private property shall emit noise in excess of sound levels that creates a nuisance to surrounding properties or in violation of the noise ordinances.
- (f) Light and Glare from Exterior Lights.
 - (1) The light source within a light fixture shall not be visible from a neighboring structure. Lights may be shielded or recessed and set on low poles to prevent light from shining onto neighboring properties and distracting drivers.
 - (2) No light used for illuminating a parking area shall shine onto property in a residential district.
 - (3) The intensity and direction of light shall not significantly disrupt the night habitat of any natural area larger than one-half acre, a stream and riparian corridor, or other similar natural areas.
 - (4) The foot-candle measurement at any property line shall not exceed 1.0 lumen.
 - (5) Lighting intensity shall be reduced after closing hours.
- (g) Exemptions.
 - (1) The following noise levels shall be exempt from the noise provisions during the daytime only: Firearms on authorized ranges, legal blasting, temporary construction activity and equipment, installation of utility equipment, lawn mowers, chainsaws, garden and farming equipment.
 - (2) The following noise sources shall be exempt from the noise provisions at all times: Aircraft, Railroads, Emergency vehicles and equipment, Warning devices operating continuously for not more than five minutes, Bells, chimes or carillons operating continuously for not more than five minutes, The repair of essential utility services. Officially sanctioned parades or other events.

1143.10 UPTOWN DISTRICT.

(a) Purpose. The purpose of this district is to preserve and encourage the continued vitality of the City's historic central business and civic activity area. Selected uses and regulatory standards are provided to guide development so as to achieve a mixture of appropriate uses in a functional, aesthetic and pedestrian compatible manner.

(b) Uses.

(1) Permitted uses.

- A. Any combination of residential dwelling types as defined in Section 1159.05(8), A through E., on the second floor or higher.
- B. Retail services shall not exceed 10,000 square feet of floor area on any given floor.
 1. Apparel and jewelry.
 2. Bars and establishments serving alcohol.
 3. Books, stationery, newspapers, magazines, office equipment and office supply stores.
 4. Drugs and pharmaceuticals.
 5. Food products, including groceries, meat, fish, baked goods, confectionary, and beverages.

6. Flowers, potted plants, and garden supplies.
 7. Hardware, paint, home furnishings, and other home improvements products.
 8. Optical aids.
 9. Photography, bicycles, gifts and toys, pets, music, sporting goods, and other hobby and craft supplies.
 10. Restaurants, not including drive-in.
 11. Other similar establishments engaged in retail trade except those included as Conditional Uses in subsection (b)(2) hereof.
- C. Personal and professional services shall not exceed 10,000 square feet of floor area on any given floor.
1. Accounting, advertising, architectural, auditing, bookkeeping, legal, and medical offices, and offices for other similar professional service providers.
 2. Banks, credit agencies, investment firms, real estate, insurance offices, and other similar establishments engaged primarily in financial services.
 3. Barber and beauty shops.
 4. Cleaners, including dry cleaning and Laundromats.
 5. Home improvement services, including carpentry, electrical, heating, plumbing, and decorating.
 6. Offices for nonprofit, charitable, labor, and other service organizations.
 7. Repair establishments for bicycles, household appliances, locksmiths, shoes, and motor vehicles (if no gasoline is sold).
 8. Theaters, not including drive-ins.
 9. Other similar personal and professional services, such as employment agencies, travel bureaus, and ticket offices.
- D. Accessory buildings incidental to the principal use.
- E. Sidewalk uses.
1. This section is intended to provide for active use of private and public property in the Uptown District for outdoor cafes and retail sales. A sidewalk use requires a permit, shall be operated according to the provisions of this section, and is valid for one year and only for the location, design, and use approved.
 2. A sidewalk use may include outdoor activity on both private and public property as follows:
 - a. Private property in the front setback area or any courtyard or other partially enclosed area adjacent to a right-of-way may be utilized only for the same as commercial activity ~~related to~~ as the principal use on the first floor of the principal structure.
 - b. The public sidewalk and other paved portions of the right-of-way that are designed and constructed to accommodate pedestrians may be utilized only for the same commercial activity ~~related to~~ as the principal use on the first floor of an immediately adjacent principal structure.
 3. A sidewalk use permit application shall include a fee, a scaled site plan, and other information sufficient to determine compliance with all of the following provisions:
 - a. The use may not extend more than five feet into the right-of-way; and
 - b. The use may not result in less than five feet of unimpeded sidewalk adjacent to the sidewalk use (street

trees, parking meters, street sign poles, and the like are impediments); and

- c. The adjacent property owner and the operator of the use have a liability insurance policy that covers accidents and injuries on the public right-of-way for a minimum of one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per accident, premiums are fully paid for the calendar year of the permit, and the City of Oxford is a named insured upon such liability policy; and
 - d. The use shall employ only displays, counters, tables, chairs, umbrellas, and planters that are moveable; and
 - e. Nothing related to the operation of the use shall be permanently installed on public or private property except anchors that do not protrude above the adjacent sidewalk surface and do not otherwise create a trip hazard; and
 - f. All materials shall be lightweight and easily removable; and
 - g. All roofs shall be made of a flame-resistant (per Ohio Basic Building Code and Ohio Fire Code), nonstructural material such as treated canvas or vinyl fabric; and
 - h. All illumination shall be confined within the perimeter of the use; and
 - i. All partitions shall be transparent 3 feet above the adjacent sidewalk surface.
- 4. The City Manager or designee shall require removal of anything or correction of any condition associated with a sidewalk use that threatens the public health, safety, or general welfare and shall revoke an approved permit if its holder fails to comply with any such order in a timely manner.
 - 5. The City Manager shall reinstate a revoked permit if the holder removes the immediate threat and provides sufficient proof that the threat will not recur.
 - 6. If a sidewalk use permit is revoked more than once during the year that the permit is valid, the permit shall not be reinstated and a new permit shall not be issued until after the original expiration date of the revoked permit.

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Zoning Code Text Amendment Application
City of Oxford, Ohio

Feb

REQUIRED INFORMATION

Name of Applicant:

City of Oxford

(Attach a Letter of Agency if the applicant is not the property owner.)

Mailing Address:

101 E High St.
Oxford, OH 45056

Telephone Number(s)

Email Address

jchen@cityofoxford.org

SUBMISSION REQUIREMENTS

A written, detailed description, where applicable, is required for each subsection.

1141

All applications must include:

- A. A general description of the proposed amendment.
- B. A narrative statement that describes how the proposed amendment relates to the Comprehensive Plan.
- C. A statement that identifies potential negative consequences of the proposed amendment.
- D. Any existing section number and text that is proposed to be deleted or amended.
- E. Any new or amended text as it is proposed to be codified including its proposed location in the Code. (section numbers)
- F. A narrative statement that describes the expected effects of the proposed text.
- G. A narrative statement that compares the expected effects of the proposed text with any existing text that it will replace, if applicable.

Planning Commission and Council Review The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall consider the Planning Commission recommendation. If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

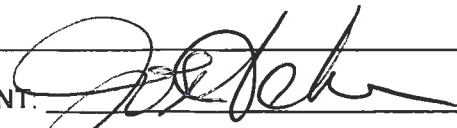
Decision Standards A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls. The proposed amendment will:

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- B. improve the public health, safety, and general welfare of Oxford.
- C. clarify the intent of the Code.
- D. better implement the intent of the Code.
- E. improve enforcement of the Code.

All materials and the application fee in the amount of **\$150.00 plus actual postage**, payable to the City of Oxford must be delivered to the office of Community Development, 101 East High Street, Oxford, Ohio 45056 45 days prior to the proposed meeting date. Any questions should be directed to the Community Development Department at (513) 524-5204.

NOTE: Incomplete applications will not be processed. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

SIGNATURE OF APPLICANT:



Date:

11/28/12

PRINTED NAME:

Jung-Han Chen

FEE / RECEIPT

\$150 Fee plus Actual Postage Paid / Receipt Number:

NA

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 2/4/13

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

PC-02-2013 ZONING CODE TEXT AMENDMENTS to Amend Chapter 1141 Accessory, Temporary, Supplementary and Environmental Regulations, Specifically Temporary Sales, Roadside Stands or Transient Vendors, Mobile Food Carts and Vendors; and, Chapter 1143.10 Uptown District (UP) Regarding the Sidewalk Use Permit, **City of Oxford, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **2/8/13** Note: If no comments are received, we will assume the project meets your department's standards.

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Drawings are returned: w/comments without/comments ✓

Drawings reviewed by: _____

A. Popescu

Date: 2-5-13

VICTOR POPESCU
PRINTED NAME

RECEIVED

FEB - 5 2013

City of Oxford
Engineering Division