

Ordinance No. 801-2023 AS AMENDED

**By Council Members McCormack, Hairston
and Griffin (by departmental request)**

AN ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 301.01 to ~~301.09~~ 301.10 and 301.99 relating to transit oriented development and transportation demand management; and to amend Section 341.02, as amended by Ordinance No. 1872-08, passed February 9, 2009, and Section 349.11, as amended by Ordinance No. 1236-A-67, passed June 28, 1971, relating to applicability and exceptions to minimum parking requirements.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 301.01 to ~~301.09~~ 301.10 and 301.99 to read as follows:

CHAPTER 301

Transit Oriented Development and Transportation Demand Management

Section 301.01 Statement of Purpose

These regulations are adopted for the following purposes: to support the implementation of the general plan, as amended, adopted by the City Planning Commission in accordance with §76-2; to create neighborhoods where every resident can survive and thrive, and where their needs and desired amenities can be reached quickly and safely via a variety of transportation modes including walking, biking, transit, and motor vehicles; to support the welfare of the region's bus and rail transit system by permitting compact land use and development suitable to the sustainable operation and expansion of transit services across the City of Cleveland; to support the City of Cleveland in reaching goals described in its adopted Climate Action Plan related to environmental sustainability, the reduction of carbon emissions and decarbonization, and transportation equity; and to promote public health, safety, and general welfare of the people of the City of Cleveland.

Section 301.02 Definitions

As used in this chapter:

- (a) "Director" means the Director of the City Planning Commission.
- (b) "Headway(s)" means the distance or duration between vehicles in a transit system measured in space or time.
- (c) "High Frequency Transit Station" means any bus and rail stop or station with service headways of fifteen (15) minutes or less at any given time of day.
- (d) "Single Occupancy Vehicle Trips" or "SOV Trips" is a measure of the number of trips from an origin to a destination conducted by a sole occupant of a motor vehicle.
- (e) "Transportation Demand Management" or "TDM" means design features,

Ordinance No. 801-2023

AS AMENDED

incentives, and tools implemented by a Transit Oriented Development Project to meet the City's goals stated in Section 301.01 and the TDM Standards adopted pursuant to Section 301.05.

(f) "Transportation Demand Management Menu" or "TDM Menu" means the specific TDM options available to TOD Projects to comply with the requirements of TDM Program, as established and maintained in the TDM Program Standards.

(g) "Transportation Demand Management Plan" or "TDM Plan" means a Transit Oriented Development Project's plan describing compliance with the Transportation Demand Management Program Standards.

(h) "Transportation Demand Management Program" or "TDM Program" means the requirement that Transit Oriented Development Projects incorporate Transportation Demand Management in the proposed projects.

(i) "Transportation Demand Management Program Standards" or "TDM Program Standards" means all the rules and requirements as adopted by the City Planning Commission pursuant to Section 301.05.

(j) "Transportation Demand Management Tier" or "TDM Tier" means the category assigned based on the characteristics of a TOD Project as defined by the TDM Program Standards adopted by the City Planning Commission pursuant to Section 301.05.

(k) "Transit Oriented Development Project" or "TOD Project" means any land use development, including new construction, that changes or expands the use(s) on a parcel of land entirely or partially within the Transit Oriented Development Zone.

(l) "Transit Oriented Development Zone" or "TOD Zone" is the area within ¼ mile radius of a High Frequency Transit Station and that is depicted in the TDM Program Standards.

(m) "Vehicle Miles Traveled" or "VMT" is a measure of the distance in miles traveled in a personal automobile via expected trips generated by a TOD Project and more fully described in the TDM Program Standards adopted by the City Planning Commission.

Section 301.03 Applicability

(a) No building permit or final certificate of occupancy shall be issued by the City without the submission to and approval by the Director of a TDM Plan submitted by, or on behalf of, the property owner for a TOD Project that is assigned a TDM Tier of one (1) or greater in accordance with the TDM Program Standards.

(b) No final certificate of occupancy shall be issued by the City without the issuance of a Certificate of Registration required under Section 301.07.

Ordinance No. 801-2023

AS AMENDED

(c) *Exception.* No TOD Project consisting of five thousand (5,000) square feet or fewer shall be subject to the TDM Program Standards.

Section 301.04 Exemptions from and Alternative Regulations to the Zoning Code

Notwithstanding other provisions in the Zoning Code, TOD Projects are exempt from all requirements for a minimum number of off-street vehicular parking spaces in the Zoning Code.

Section 301.05 Transportation Demand Management Program Standards

(a) Within 90 days of the effective date of this chapter, the City Planning Commission shall adopt the TDM Program Standards. The TDM Program Standards shall be made publicly available in print and published in the *City Record* and on the City Planning Commission's website and shall become effective 30 days after publication in the *City Record*.

(b) The TDM Program Standards shall be updated from time to time, as deemed appropriate by the City Planning Commission, to reflect best practices in the field of Transportation Demand Management.

(c) When preparing, adopting, or updating the TDM Program Standards, the City Planning Commission shall be guided by the Statement of Purpose of Section 301.01, specifically the goals to reduce SOV Trips and VMT, increase transit ridership, and increase mode shift to modes of transportation alternative to the motor vehicle, and shall abide by the following:

(1) The requirements of the TDM Program, as set forth in the TDM Program Standards, shall be proportionate to the total amount of VMT and/or SOV Trips produced by TOD Projects.

(2) The TDM Program Standards shall provide flexibility for TOD Projects to achieve the purposes of the TDM Program in a way that best suits the circumstances of each TOD Project, including a menu of options from which to choose, known as the TDM Menu.

(3) Each of the TDM Menu options shall be assigned a number of points reflecting its relative effectiveness at reducing VMT/SOV Trips, as approved by the City Planning Commission.

(4) The TDM Program Standards shall establish TDM Tiers to determine the minimum threshold of points required for compliance by TOD Projects with the TDM Program. TDM Tiers shall be determined by such metrics deemed appropriate by the City Planning Commission and shall include square footage by use and gross square footage as one criterion and any other combination of criteria related to TOD Projects such as:

Ordinance No. 801-2023

AS AMENDED

- i. total number of housing units
- ii. total number of anticipated employees

or other criteria as determined by the City Planning Commission.

(d) The TDM Program Standards shall specify the requirements for a TDM Plan, including the administrative process for submission, review, and approval by the Director.

Section 301.06 Transportation Demand Management Plan Review

(a) The Director of Building and Housing shall forward Building Permit applications and proposed TDM Plans, if applicable, to the Director of City Planning.

(b) A proposed TDM Plan shall be reviewed in conjunction with any other necessary reviews required by the City.

(c) Compliance with the TDM Program, including compliance with the finalized TDM Plan, shall be a condition of approval for the TOD Project.

(d) The TOD Project shall be subject to the TDM Program Standards in effect at the time of its first application. If the City Planning Commission has issued revised TDM Program Standards subsequent to the date of the TOD Project's first application was filed, then the applicant may elect to have the TOD Project be subject to the later-approved TDM Program Standards.

Section 301.07 Transportation Demand Management Registration Required and Implementation

No person, firm or corporation shall implement a use or change use within the TOD Zone without a current Transportation Demand Management Registration ("TDM Registration") for a TOD Project required to submit a plan, or fail to implement a plan approved, under division (a) of Section 301.03.

Section 301.08 Transportation Demand Management Registration Application

Every applicant for a TDM Registration required by this chapter shall make an application in writing to the Commissioner of Assessments and Licenses, which application shall provide the following information:

(a) The name and address of the applicant, and, if a partnership, the names and addresses of all partners, and, if a corporation, the name, date and state under which incorporated, and the names and addresses of the officers and statutory agent.

(b) The address of the subject property or the facility or structure subject to the TDM Plan.

Ordinance No. 801-2023

AS AMENDED

(c) The TDM Plan and any required documentation specified in the TDM Program Standards adopted by the City Planning Commission pursuant to Section 301.05.

(d) Any proposed revisions to a previously approved TDM Plan by the applicant.

(e) Such other information as the Commissioner deems pertinent or necessary to carry into effect the provisions of this chapter.

Section 301.09 Transportation Demand Management Registration Issuance; Renewal

(a) *Registration Issuance.* On receipt of an application for a TDM Registration, the Commissioner of Assessments and Licenses shall transmit the application to the Director of City Planning for review. The Director shall, within sixty (60) days of receipt of the application, notify the Commissioner of Assessments and Licenses whether the application has been approved. On notification of approval, the Commissioner of Assessments and Licenses shall issue the TDM Registration on a form promulgated by the Commissioner for that purpose.

(b) *Registration Renewal.* All registrations issued under this section shall be ~~initially issued for a period of one (1) year.~~ valid for a period not to exceed one (1) year except as otherwise provided below and shall expire October 31 of every year. Applicants who have maintained compliance with their approved TDM Plan for a continuous period of three (3) years shall be issued a registration for a three (3) year period. Registrations may be renewed if an application for renewal containing the information listed in Section 301.08 is submitted to the Commissioner of Assessments and Licenses not less than ninety (90) days before ~~termination~~ expiration of the previous registration.

(c) *Registration Extension.* If an application for a registration renewal has been submitted in accordance with the provisions of Sections 301.08 and 301.09 of this chapter, and if, before the existing registration has expired, the City has not taken all administrative and legislative action required for approval of the renewal of the registration (including, if applicable, the granting of an encroachment permit), the Commissioner of Assessments and Licenses shall extend the existing registration on a month-by-month basis until the City has taken action as required by this chapter, but for no more than three (3) months.

(d) *Applicability to Premises.* Registrations issued under this section shall apply only to the premises described in the application, and a separate application and registration shall be required for each noncontiguous site operated. The registration shall not be assignable or transferable.

(e) *Registration Fee.* Each application for a new or renewal registration shall be accompanied by a fee set by the Board of Control.

Ordinance No. 801-2023 AS AMENDED

Section 301.10 Appeals

Any denial of a TDM registration, and any civil penalty imposed under Section 301.99, may be appealed in writing to the Board of Zoning Appeals within thirty (30) days of the date of the decision.

Section 301.99 Penalties

Whoever violates Section 301.07 may be subject to a civil penalty of up to one thousand dollars (\$1,000.00).

Section 2. That Sections 341.02 and 349.11 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1827-08, passed February 9, 2009, and Ordinance No. 1236-A-67, passed June 28, 1971, are amended to read as follows:

Section 341.02 Applicability

No Building Permit shall be issued by the City without design approval by the City Planning Commission, or its Director, for development projects that meet the following criteria for applicability, except that such approval shall not apply to structures that are designated as Landmarks or are located in Landmark Districts, for which design approval shall be the responsibility of the Landmarks Commission.

(a) *Design Review Districts.* New construction of and applicable exterior alterations to buildings and structures located in designated Design Review Districts.

(b) *New Residential Development.* New construction of residential buildings, including any new building for which residential use and associated accessory garage parking occupy at least fifty percent (50%) of the building.

(c) *New Retail, Office and Institutional Development.* New construction of buildings for "retail business, office and institutional uses," as defined in this chapter, including any new building for which such uses and associated accessory garage parking occupy at least fifty percent (50%) of the building.

Ordinance No. 801-2023

AS AMENDED

(d) *Public Properties.* New construction of and applicable exterior alterations to buildings and structures owned by local, county, state or federal government or by any other governmental agency, including regulated public utilities.

(e) *Planned Unit Development (PUD) Districts.* New construction of buildings and structures located in designated Planned Unit Development (PUD) Districts.

(f) *Transit Oriented Development Projects.* Any land use development, including new construction, that changes or expands the use(s) on a parcel of land entirely or partially within the Transit Oriented Development Zone, as defined in Section 301.02 of these Codified Ordinances.

Section 349.11 Exceptions

(a) In the Central Business District, as defined in Section 325.12, or the Transit Oriented Development Zone, as defined in Section 301.02, or as either section is subsequently amended, the off-street parking requirements set forth in Sections 349.04 and 349.10 shall not apply.

(b) Any person or group or combination of business, commercial or industrial organizations which has a comprehensive plan for the development, redevelopment or rehabilitation of existing or proposed facilities encompassed within a contiguous area shall be considered as a unit for the purpose of the application of the off-street parking requirements set forth herein.

The group shall submit a plan to the Off-Street Parking Committee indicating that the combined parking facilities by all of the components of the plan substantially meet the intent of the minimum standards required herein. The plan shall set forth in detail:

- (1) The area which encompasses the rehabilitation, redevelopment or development;
- (2) The existing or proposed use of each existing or proposed structure;
- (3) The schedule of the rehabilitation or construction of the structures;
- (4) Any duplication of off-street parking requirements as applied to the plan;
- (5) A proposal for the joint use and sharing of off-street parking facilities. The proposal shall designate the location of the facilities to be shared and shall indicate the period of usage so as to show no conflict in usage by those sharing the facilities.

(c) Any plan submitted to the Planning Commission for its approval in accordance with the Charter, which outlines and complies with the standards set forth in ~~subsection (b) hereof~~ division (b) of this section, shall be considered as having met the off-street parking requirements of the City.

Ordinance No. 801-2023 AS AMENDED

Section 3. That existing Sections 341.02 and 349.11 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1827-08, passed February 9, 2009, and Ordinance No. 1236-A-67, passed June 28, 1971, are repealed.

Section 4. That the enactment of new Sections 301.01 to 301.09 and the amendment and repeal of Sections 341.02 and 349.11, of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, shall take effect and be in force 180 days after the effective date of this ordinance.

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

SM:MC:nl
7-12-2023
FOR: Director Huang

Ord. No. 801-2023

REPORT
after second Reading

**By Council Members McCormack, Hairston and Griffin
(by departmental request)**

AN ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 301.01 to 301.09 relating to transit oriented development and transportation demand management; and to amend Section 341.02, as amended by Ordinance No. 1872-08, passed February 9, 2009, and Section 349.11, as amended by Ordinance No. 1236-A-67, passed June 28, 1971, relating to applicability and exceptions to minimum parking requirements.

READ FIRST TIME

REPORTS

and referred to

by the council _____

CITY CLERK

READ SECOND TIME

by the council _____

CITY CLERK

READ THIRD TIME

by the council _____

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. _____ Page _____
Published in the City Record _____