



**CITY OF CLEVELAND**  
Mayor Frank G. Jackson

City Planning Commission  
601 Lakeside Avenue, Room 501  
Cleveland, Ohio 44114-1071  
Phone: 216.664.2210 - Fax: 216.664.3281

**Ord. No. 887-18.**

**By Council Member Brancatelli (by departmental request).**

**An ordinance to amend Sections 325.03, 337.23, 343.23, 357.09, and 357.13 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to side yard setbacks, parking spaces sizes, residential garage placement and size, and conditional uses in the Pedestrian Retail Overlay; and to supplement the codified ordinances by enacting new Section 325.431 relating to the definition of Lot Interior.**

***Be it ordained by the Council of the City of Cleveland:***

**Section 1.** That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976: Section 325.03, as amended by Ordinance No. 1205-58, passed June 30, 1958, Section 337.23, as amended by Ordinance No. 814-10, passed October 4, 2010, Section 343.23, as amended by Ordinance No. 1648-12, passed November 27, 2012, Section 357.09, as amended by Ordinance No. 573-18, passed July 18, 2018, and Section 357.13, as amended by Ordinance No. 539-12, passed May 21, 2012 are amended to read as follows:

**Section 325.03 Accessory Parking Space**

“Accessory parking space” means an area open or enclosed, of not less than one hundred fifty-three (153) square feet accessible from a street, exclusive of drives or access area and to be used solely for the storage or parking of motor vehicles for use by the owner, tenants, visitors, patients, clients, customers or employees of the main building, structure or land use. Off-street loading requirements shall not be considered as accessory off-street parking spaces.

**Section 337.23 Accessory Uses in Residence Districts**

1. *Permitted Accessory Uses.* The following accessory uses and buildings are permitted in a Residence District. Attached and detached garages shall be regulated as described in division (a)(6) of this section. All other permitted accessory buildings shall be located on the rear half of the lot, a minimum of eighteen (18) inches from all property lines and at least ten (10) feet from any main building on an adjoining lot in a Residence District. Accessory buildings shall not occupy more than forty percent (40%) of the area of the required rear yard and, in the case of a corner lot, shall be located back of any required setback or specific building line. For side street yard regulations consult Sections 357.05 to 357.07.

1. Within a main building, the office of a surgeon, physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building and employing in the office not more than one (1) nonresident office or laboratory assistant.

2. Customary home occupation for gain carried on in the main building or in a rear building accessory thereto and requiring only customary home equipment; provided that no non-resident help is employed for that purpose, no trading in merchandise is carried on and no personal physical service is performed and, in a Limited One-Family District or in a One-Family District, no sign or other outward evidence of the occupation is displayed on the premises.

3. Agricultural uses, subject to the regulations of Section 337.25 and Section 347.02 regarding the keeping of farm animals.

4. Private incinerators for the burning of refuse and garbage produced on the same premises, provided that the construction is such as to assure immediate and complete combustion and freedom from offensive smoke, ash, unburned particles and odors, and a permit therefor is granted by the Commissioner of Environment.
5. Fences and walls, as regulated in Chapter 358.
  6. Parking spaces for the occupants of the premises and, when the premises are used for other than residence purposes, for their employees, patrons and guests provided they are located in the rear half of the lot.
    1. Interior Lots.
      1. Detached garages. Permitted provided they are located in the rear half of the lot.
      2. Attached Garages. Permitted provided they are located in the rear half of the lot, or provided that they have their entire width and height screened from a required or actual Front Yard Setback Building Line by an Active Use of at least 9 (nine) feet in depth.
    2. Corner Lots.
      1. Lot width: more than 40'  
Attached and Detached garages. Permitted provided they are located in the rear half of the lot. Garage doors fronting a Side Lot Line shall be set back a minimum of eighteen (18) feet from the Side Lot Line, or a minimum of fifty percent (50%) of the established Side Street Setback, whichever is greater.
      2. Lot width: 40' or less
        1. Detached Garages. Permitted provided they are located in the rear half of the lot. Garage doors fronting a Side Lot Line shall be setback a minimum of 18 (eighteen) feet from the Side Lot Line.
        2. Attached Garages. Permitted provided they are located in the rear half of the lot. Garage doors fronting a Side Lot Line shall be setback a maximum of twenty-four (24) feet from the Interior Side Lot Line. Any garage door fronting a side Lot Line and within eighteen (18) feet of a Side Lot Line shall be limited to a maximum of nine (9) feet in width.
      3. In a Dwelling House District the floor area of a private garage erected as an accessory building shall not exceed eight hundred (800) square feet unless the lot area exceeds four thousand eight hundred (4,800) square feet in which event the floor area may be increased in the ratio of one (1) square foot for each twelve (12) square feet of additional lot area.
      4. In Multi-Family Districts, garages and parking spaces erected or established as accessory uses shall be subject to the restrictions specified in Sections 343.19 to 343.21 and Chapter 349.
  7. Garage Sale or other Residential Property Sales, as defined in Section 676B.01(a), as long as they conform to the provisions in Chapter 676B.
  8. Signs permitted in accordance with the requirements of Chapter 350.
    9. Any other accessory use customarily incident to a use authorized in a Residence District except that no use prohibited in a Local Retail Business District shall be permitted as an accessory use.
      2. *Accessory Building Erected Prior to Erection of Main Building.* An accessory building may be erected prior to the construction of the main building only if:
        1. The accessory building is erected on the rear half of the lot;
        2. The accessory building is so placed as not to prevent the practicable and conforming location of the main building;
        3. The main building is completed within two (2) years from the date of issuance of the permit for the accessory building.

### **Section 343.23 Pedestrian Retail Overlay (PRO) District**

1. *Purpose.* The Pedestrian Retail Overlay (PRO) District is established to maintain the economic viability of older neighborhood shopping districts by preserving the pedestrian-oriented character of those districts and to protect public safety by minimizing conflicts between vehicles and pedestrians in neighborhood shopping districts.
2. *Mapping.* The PRO District is an overlay district which shall be mapped only in an area where at least seventy-five percent (75%) of the underlying zoning is either Local Retail or General Retail. In every PRO District, any street frontage to be considered a "Pedestrian Retail Street Frontage," as defined in this section, shall be marked on the Zoning Map, with either one (1) or both sides of a street designated as such.
3. *Applicability.* The PRO District regulations shall apply only in those portions of a PRO District in which the underlying zoning is either Local Retail or General Retail. In the relevant portions of a PRO District, the regulations of the underlying zoning district shall govern except where in conflict with the regulations of the PRO District, in which case the regulations of the PRO District shall govern.
4. *Definitions.* As used in this section, the following terms shall be defined as stated below:
  1. "Pedestrian Retail Street Frontage" means that side or sides of a public street frontage where pedestrian oriented retail shopping activity exists or is expected to exist and such street frontage is specifically designated on the Zoning Map.
  2. "Pedestrian Retail Space" means that portion of a building or property located at or closest to the level of the public sidewalk and within forty (40) feet of a Pedestrian Retail Street Frontage.
  3. "Open Sales Lot" means a property or portion of a property used for the sale of merchandise stored in outdoor, unenclosed locations.
  4. "Institutional Use" means, for purposes of this section, a school, day care center, place of worship, place of assembly, hospital, nursing home, residential treatment facility, or similar use.
  5. "Non-Retail Office" means an office use whose primary activity does not involve service to customers or clients on the premises.
5. *Use Regulations.* All uses permitted in the underlying retail zoning district shall be permitted in the PRO District, except that the use of Pedestrian Retail Spaces, as defined in this section, shall be further limited as follows:
  1. *Prohibited Uses.* For Pedestrian Retail Spaces, as defined in this section, the following uses shall be prohibited:
    1. Open sales lots, as defined in this section;
    2. Filling and service stations;
    3. Car washes; and
    4. Any business served by a drive-through lane providing access to windows or other facilities at which food or merchandise can be ordered or picked up, or business can be transacted by a person in a motor vehicle.
  2. *Conditional Uses.* For Pedestrian Retail Spaces, as defined in this section, the following uses shall be permitted as Conditional Uses, as approved by the City Planning Commission under the approval criteria provided in this section:
    1. Off-street parking or loading areas;
    2. Driveways extending across a public sidewalk;
    3. Residential, institutional and non-retail office uses, as defined herein, except that ground-floor entrances and lobbies serving such uses located on upper floors or in a basement level shall be permitted without the requirement for conditional approval;
    4. Any building-enclosed use that does not have a public pedestrian entrance from the Pedestrian Retail Street Frontage;
    5. A building with an interior side yard more than four (4) feet in width and

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located within forty (40) feet of a Pedestrian Retail Frontage.

6. *Criteria for Conditional Uses.* The City Planning Commission shall approve a Conditional Use application if it determines that the application meets the following criteria:

1. In the case of a proposed residential, institutional or non-retail office use, one (1) or more of the following conditions apply:

1. The subject building space was designed specifically for the type of use proposed and, as such, occupancy by an allowed use is an unreasonable expectation;

2. Denial of the application for occupancy by a conditional use would result in a long-term vacancy of the subject property, as demonstrated by the applicant;

3. It has been determined that the proposed use is needed in the immediate area and that suitable alternative locations are unavailable.

2. In the case of a proposed off street parking or loading area or driveway, one (1) or both of the following conditions apply.

1. The size, shape or layout of the subject property does not permit placement of the parking, loading or driveway in a more suitable location.

2. It has been demonstrated by the applicant that placement of the parking, loading or driveway in an allowed location would jeopardize the continued occupancy of the subject property by uses suited to the PRO District.

3. In the case of a building enclosed use that does not have an entrance from the Pedestrian Retail Street Frontage, one (1) or both of the following conditions apply:

1. The proposed use will occupy an existing building that lacks such pedestrian entrance, and the addition of a conforming pedestrian entrance is made infeasible by the configuration of the interior space or other factors related to the design and placement of the building.

2. Placement of the pedestrian entrance in a location other than on the Pedestrian Retail Street Frontage will result in more suitable pedestrian access.

4. In the case of an interior side yard more than four (4) feet in width and located within forty (40) feet of a Pedestrian Retail Frontage, the subject building will be occupied by residential units which require the greater side yard area to allow for desirable levels of light and air.

7. *Maximum Setbacks.* Notwithstanding the provisions of the underlying zoning district, properties in PRO Districts shall conform to the following regulations with respect to maximum setbacks.

1. *Front Street Yard.* No main building on a lot abutting a Pedestrian Retail Street Frontage shall be set back more than five (5) feet from the Pedestrian Retail Street Frontage unless the City Planning Commission has approved establishment of a surface parking lot in such location as a Conditional Use. Such building features as entrances and display windows may be set back up to an additional five (5) feet as long as these features occupy no more than fifty percent (50%) of the building's total frontage. These setback regulations shall not apply to portions of buildings above the first-story level.

2. *Interior Side Yard.* No portion of an interior side yard located within forty (40) feet of a Pedestrian Retail Street Frontage shall exceed four (4) feet in width on the ground floor level, unless the City Planning Commission has approved a driveway or a residential side yard in such location as a Conditional Use.

3. *Exceptions for Outdoor Cafes.* A building may be set back a maximum of fifteen (15) feet from the Pedestrian Retail Street Frontage in order to accommodate a permanent outdoor café. If use of such café is discontinued for a period of two (2) years or more, the setback area shall be landscaped or otherwise improved in accordance with a plan approved by the City Planning Commission.

8. *Window Areas.* For any nonresidential building or storefront facing a Pedestrian Retail Street Frontage, not less than sixty percent (60%) of the front facade between two and one-half (2-1/2) and seven and one-half (7-1/2) feet in height shall be composed of transparent windows or doors. In addition, not more than twenty-five percent (25%) of such window or door area on a building or storefront shall be covered with permanent signs.

9. *Parking.* In recognition of the expected greater use of public transit, bicycles and walking by customers and employees traveling to PRO Districts, the minimum number of parking spaces otherwise required by the Zoning Code shall be reduced by thirty-three percent (33%) for retail business uses in the districts. The Board of Zoning Appeals may further reduce parking requirements where it has been demonstrated that additional parking *is available in common or shared parking facilities or in on-street parking areas located within a reasonable walking distance of the use, given the nature of the use and the district. The Board shall also consider factors as the number of bicycle racks available in proximity to a use. In making its determination, the Board shall be guided by an up-to-date analysis of parking supply and demand and other relevant factors submitted by or on behalf of the applicant. The City Planning Commission shall maintain a file of all such parking analyses submitted for properties in each PRO District.*

10. *Signs in the Public Street Right-of-Way.* An ordinance to map a PRO District in a particular location may include permission to place private signs in the public street right-of-way under the regulations of Chapter 512

of the Codified Ordinances. Such provision shall be included in the PRO designation only if it is determined, on the basis of a survey and analysis conducted by the City Planning Commission, that the particular PRO District is characterized by a preponderance of restaurants and small independent stores for which signs placed near the street curb would provide useful information to pedestrians seeking goods and services and would enhance the pedestrian-oriented image of the district. Any PRO District designated for display of signs in the street right-of-way shall be shown on the Zoning Map as a "PRO-S" District, with "S" noting the presence of special sign provisions. No sign permitted by these provisions shall be displayed without design approval of the sign's structure and permanent elements by the City Planning Commission, or where applicable, by the Landmarks Commission.

11. *Variances.* The Board of Zoning Appeals may grant variances to requirements of this section under the applicable criteria stated in Chapter 329 of this code. In the case of an appeal for a variance to permit a drive-through business in a PRO District, the Board shall consider the following factors based, in part, on a traffic study performed by the applicant:

1. The anticipated volume of vehicular use of the proposed drive-through facility, with higher volumes considered to detract from the pedestrian character of the district;
2. The anticipated proportion of drive-through customer transactions to all transactions at the business, with over fifty percent (50%) of drive-through transactions indicating that the business is an inappropriate use for a Pedestrian Retail District.
3. The impact of the drive-through facility on the pedestrian character of the designated Pedestrian Retail Street Frontage;
4. The impact on traffic safety and pedestrian safety in the vicinity of the drive-through business.

12. *Appeals.* Appeals from the decision of the City Planning Commission to approve or disapprove Conditional Uses in Pedestrian Retail Spaces shall be made to the Board of Zoning Appeals.

### **Section 357.09 Required Interior Side Yards**

#### *1. Where Required.*

1. Interior side yards conforming to the provisions of this section shall be provided and maintained along the interior side lot lines of all buildings or parts of buildings of Residential

Occupancy or Institutional H Occupancy Classification irrespective of the use district in which they are located.

2. Interior side yards conforming to the provisions of this Zoning Code shall be provided and maintained along the interior side lot lines of all main buildings in Residence Districts irrespective of the occupancy classification of the building.

2. *Width.*

1. Limited One-Family Districts. In a Limited One-Family District the minimum width of an interior side yard shall be five (5) feet and the aggregate width of side yards on the same premises shall be not less than twenty (20) feet. No building shall be erected less than twenty (20) feet from a main building on an adjoining lot within such District, nor less than ten (10) feet from a main building on an adjoining lot in other Residence Districts.

2. *Other Residence Districts.*

Where applicable		Min. distance to property line	Aggregate width of side yards	Min. distance between main buildings on adjoining lots
A. Limited One Family		5'	20'	Limited One Family District: 20' Other Residence Districts: 10'
B. One Family		1/2 height of main building or min. 10'	No requirement	10'
C. Two Family		3'	6'	6'
D. Multi-Family	One or Two family Building	3'	6'	6'
	Multi-Family Building	7'	14'	10'
E. All other Residence Districts		5'	10'	10'
F. All other Districts	Abutting a Residence District	7'	No requirement	10'
	Abutting all other Districts	0'		0'

*Irregularly Shaped Lots.* In the case of an irregular, triangular or segment-shaped lot, the required width of a required interior side yard shall be interpreted to mean the average width, provided that no such required interior side yard on any lot shall be less than three (3) feet in width at any point.

3. *Interior Side Yards Adjoining Alleys.*

1. An alley line at the side of a lot shall be deemed to be an interior side lot line.

2. The half-width of an alley abutting and parallel to the side line of a lot may be considered as part of an interior side yard required on that side. However, in all cases a setback from the alley line of not less than three

1. feet shall be provided.

1. *Interior Side Yards Adjoining Nonconforming Side Yards.* For a period of one (1) year from and after January 29, 1950, in Multi-Family Districts on any lot where the adjoining interior side yard of an existing building does not conform to the provisions of subsection (b)(2)C. hereof, the minimum width and area of the interior side yard on that side may be the average between the requirements specified in subsection (b)(2)C. hereof, and such existing adjoining side yard, but if such existing side yard is less in width than one-sixth (1/6) its building height (the ordi-

nance requirement in effect prior to the passage of Ordinance No. 573-18 then the existing side yard shall be figured at one-sixth (1/6) the height of its building.

### **Section 357.13 Yard Encroachments Permitted**

Required yard spaces shall be maintained free and unobstructed except for trees and shrubbery, and, in interior side or rear yards, cloths, poles, arbors, garden trellis and similar accessories, and except that the following encroachments shall be permitted.

1. *Underground Garage or Accessory Space in Multi-Family Districts.* Within the required yard spaces back of the setback building line in a Multi-Family District, an underground garage or other accessory space may be constructed provided the height of such structure, including parapets, piers or railings, shall not exceed five (5) feet above the grade level, and provided such structure does not prevent free access to the rear yard.

2. *Front Yard and Side Street Yard Encroachments.* Except as restricted or limited by other provisions of this Zoning Code, the following front yard and side street yard encroachments shall be permitted in any use district:

1. Front yard and side street yard encroachments permitted under Chapter 3109, and Chapter 3113, except that in a Dwelling House District no entrance canopy shall be erected, and no marquees or fixed or retractable awning shall project more than six (6) feet beyond the building line or within ten (10) feet of the street line.

2. Steps and landings, and their appurtenant railings, balustrades and parapets, leading up or down to floor levels directly above or below the grade level.

3. Fences and walls, as regulated in Chapter 358.

4. Open porticos or porches projecting not more than eight (8) feet, and enclosed porches, balconies or vestibules projecting not more than four (4) feet.

5. Structures permitted by division (a) of Section 3113.10, division (a) of Section 3113.13 and Section 3113.16 or where not so permitted, gasoline pump islands, sign poles or similar temporary and easily removable structures, provided that conditional and temporary permits therefore are granted, subject to appropriate conditions and safeguards by the Board after public notice and public hearing, and provided, further, that the erection, maintenance and use thereof do not conflict with the intent and purposes of this Zoning Code.

6. For one (1) to four (4) family dwelling structures, wheelchair lifts, including platform and appurtenant structures, set back a minimum of five (5) feet from any public right-of-way and a minimum of three (3) feet setback from any other property line, to be removed when no longer in use.

7. For one (1) to four (4) family dwelling structures, wheelchair ramps set back a minimum of five (5) feet from any public right-of-way and a minimum of three (3) feet from any other property line, to be removed when no longer in use, and meeting slope requirements and all other requirements of the Ohio Building Code, and as determined by collaboration between the City Planning Commission office and the Department of Building and Housing:

1. designed to minimize the length of the ramp; and

2. located in a side yard or rear yard unless such placement is determined to be infeasible, thereby necessitating location in a front yard.

3. *Rear Yard and Interior Side Yard Encroachments.* Except as restricted or limited by other provisions of this Zoning Code, the following rear yard and interior side yard encroachments shall be permitted in any use district:

1. In rear yards only, accessory buildings and uses in connection with Residence Occupancy as defined and limited in Section 337.23, and similar accessory buildings and uses in connection with buildings of Institutional H Occupancy

Classification. Accessory buildings or uses attached or forming part of a main building shall be permitted to encroach upon such rear yards to the extent permitted for detached accessory buildings or uses.

2. Projections for architectural embellishment listed in Section 3109.08, provided that no main cornice or eaves shall project into a required yard more than two (2) feet, measured horizontally, and no bar or oriel shall be constructed in a required interior side yard and none shall project into a required rear yard more than eighteen

1. inches, and no other projection shall exceed the maximum permissible projection specified in Section 3109.08 or be so located as to materially obstruct natural light or ventilation.

1. Fixed awnings, as permitted by Section 3109.10.

2. Retractable awnings, as permitted by Section 3109.11.

3. Steps, landings and their appurtenant railings, balustrades and parapets, leading up or down to floor levels directly above or below the grade level, not extending nearer than one (1) foot to a rear or side lot line.

4. Chimneys projecting not more than thirty-two (32) inches, downspouts projecting not more than twelve (12) inches, and ventilating ducts or pipes projecting not more than thirty-two (32) inches and having a maximum aggregate cross-sectional area in any yard and at any level or one thousand twenty-four (1,024) square inches.

5. Fences, walls, hedges or other barriers, as regulated in division (a)(6) of Section 337.23.

4. *Temporary Structures.* Temporary offices, bridges, barricades and similar structures required for and incident to building construction.

**Section 2.** That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976: Section 325.03, as amended by Ordinance No. 1205-58, passed June 30, 1958,

Section 337.23, as amended by Ordinance No. 814-10, passed October 4, 2010

Section 343.23, as amended by Ordinance No. 1648-12, passed November 27, 2012,

Section 357.09, as amended by Ordinance No. 573-18, passed July 18, 2018 and

Section 357.13, as amended by Ordinance No. 539-12, passed May 21, 2012 are repealed.

**Section 3.** That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section

325.431 to read as follows:

**Section 325.431 Lot, Interior**

“Lot, Interior” means a lot other than a corner lot.

**Section 4.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

**Passed June 3, 2019.**

**Effective July 3, 2019.**