



ORDINANCE 2023-22

AN ORDINANCE AMENDING CODE SECTIONS 1143.16.2; 1145.19; and 1123.01 OF THE CODIFIED ORDINANCES REGARDING THE SPECIAL EVENTS AND OBJECTIONABLE, NOXIOUS, OR DANGEROUS USES, PRACTICES

WHEREAS, the Development Committee of City Council has prioritized updates to the Codified Ordinances; and

WHEREAS, Staff and the Law Director have identified potential updates to the Codified Ordinances in a continued effort to analyze the development code and standards; and

WHEREAS, the Planning and Zoning Commission held a public meeting on July 12, 2023 and recommended approval of the proposed amendments to City Council; and

WHEREAS, the periodic analyzing, revising and updating of the Codified Ordinances to coincide with Charter requirements, reflect current best practices and avoid inconsistencies and repetition is in the best interest of the City.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO AS FOLLOWS:

Section 1: That Code Sections 1143.16.2; 1145.19; and 1123.01 of the Codified Ordinances are hereby amended as set forth in the document attached hereto as Exhibit A and incorporated herein by reference.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of Council and any of the decision-making bodies of the City of Powell which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

[Signature] 9/15/23
Daniel Swartwout
Mayor Date

[Signature] 9/15/23
Elaine McCloskey
City Clerk Date

EFFECTIVE DATE: October 5, 2023

This legislation has been posted in accordance with the City Charter on this date 9/16/2023
[Signature] City Clerk



1143.16.2 DB-DOWNTOWN BUSINESS DISTRICT.

(a) *Purpose.* There is hereby created an "DB" ("Downtown Business") District to preserve, protect, and promote the village-scale central commercial and office environment through promotion of mixed use pursuits developed in a manner that is pleasant, safe, and convenient, the promotion of adaptive reuse of older commercial and office structures, and those constructed originally as residences, for appropriate village-scale commercial and office purposes, retention of the village scale and character through the limitation of uses, the provision for the realization of a fine-grained intermixture of small-scale residential, office, and retail uses that was the hallmark of village life, and minimization of the impact of provisions for auto parking on loss of community character. This district shall be reserved for property located within the downtown district overlay district.

(b) Unless otherwise noted on the Official Zoning Map and associated materials, the following uses are permitted in the Downtown Business District:

Retail Shops

Office Facilities

Consumer and Trade Service Facilities

Convenience Businesses

Personal Services

Commercial recreation and entertainment facilities, indoors

Museums and Galleries

Zero Lot Line Development

Accessory Buildings and Uses

Public Use Facilities

Religious, education, and cultural uses

Home Occupations

Dwelling, Single-Family Detached

Dwelling, Single-Family Attached

Dwelling, Two-Family

Dwelling, Multi-Family

(c) Unless otherwise noted on the Official Zoning Map and associated materials, the following uses are conditionally permitted in the Downtown Business District:

Drive-Through Facilities for Permitted Use

Bed and Breakfast Inns

Outside Display of Products for Sale in Yard or Parking Areas

Child-Day Care

Class I, Type B Group Residence Facilities (5 or less residents)

Life Care Facilities

Elderly Housing Facilities

- Convalescent Home
- Nursing Homes
- Congregate Housing
- Veterinarian Offices
- Roadside Sale of Agricultural Products Produced on the Premises
- Commercial and Noncommercial Playgrounds, Playfields, and Picnic Areas

(d) *Principal building setbacks are as follows:*

Front: Minimum 20 feet, Maximum 25 feet

Side: 5 feet

Rear: 5 feet

(e) *Accessory building setbacks are as follows:*

Front: 35 feet

Side: 5 feet

Rear: 5 feet

(f) *Additional Requirements.*

- (1) Maximum lot coverage is 20 percent. The Planning and Zoning Commission can set density bonuses up to an additional five percent lot coverage for development that includes the expansion and/or creation of public amenities such as streetscape improvements, public gathering spaces, park improvements, and other notable public amenities as determined by the Planning and Zoning Commission.
- (2) Minimum building separation is ten feet.
- (3) Maximum building height is 35 feet for principal buildings and 23 feet for accessory buildings.
- (4) The first floor of all structures facing a public street must be occupied by a non-residential use, unless specifically authorized in an approved Final Development Plan.
- (5) Residential dwellings in this district shall meet the requirements of the DR-Downtown Residence District.
- (6) The setbacks required for any non-residential use adjacent to existing residential uses shall be a minimum of 25 feet.

(g) *Supplemental Regulations.*

- (1) In determining the uses permitted in this district, the following retail uses primarily engaged in the selling of merchandise for personal or household consumption, or uses deemed to be substantially similar, shall be permitted in this district:

hardware stores	grocery stores	meat markets
seafood markets	fruit stores	vegetable markets
candy stores	drug stores	proprietary stores
liquor stores	carry-outs	florists
music stores	antique shops	curio stores
cloth/yarn shops	tea rooms	sit-down restaurants
book stores	laundromats	laundry shops

dry cleaning shops	beauty parlors	barber shops
photo studios	health spas	shoe repair shops
drinking places	gift shops	

- (2) In determining the uses permitted in this district, the following office uses that provide personal services, or uses deemed to be substantially similar, shall be permitted in this district:

insurance agencies	insurance brokers	real estate offices
law offices	physician offices	dentist offices
osteopath offices	chiropractor offices	podiatrist offices
allied medical office	allied dental office	optical office
accountant office	architect office	engineer office
credit agencies	loan offices	banks

- (3) In determining the uses permitted in this district, the following consumer and trade service facilities that commonly provide home and office citizen services, or uses deemed to be substantially similar, shall be permitted "consumer and trade service" uses in this district:

copy shops	letter services	box and mail shops
gift wrap services		

- (4) Veterinarian's offices shall be conditionally permitted uses in this district provided that the practice is limited to small domestic animals, that no animals are boarded on the premises, and that no outside runs or exercise areas are provided.
- (5) Child day-care facilities must be architecturally compatible with the neighborhood, and provision must be made for adequate vehicular access and parking during peak pick-up and drop-off periods, and fences must be provided to control the access of children to adjoining hazardous conditions such as roads, streets, lakes, creeks, ponds, and to adjacent property. If the adjacent property is residential, the child care facility building must be no less than ten feet from the residential property line.
- (6) Where this district abuts a residential zone, side and rear yard spaces adjoining the residential zone shall be the same as for that residential zone.
- (7) The parking provisions set forth in Chapter 1149 shall be met; provided, however, the Planning and Zoning Commission, through an Administrative Review, can consider reductions to those requirements provided it is sufficiently demonstrated through data, applicable standards, and/or other materials and information that the minimum requirement is not necessary, in accordance with subsection (h) below and any other applicable provisions of Chapter 1149.
- (8) Parking areas shall be located behind principal buildings in manner to minimize the view of the parking area from any public right-of-way. If, in the opinion of the Planning and Zoning Commission, a parking area is not satisfactorily screened from view, additional landscape or other screening may be required.
- (9) Adequate provision for storm drainage and sanitary sewerage shall be required for the approval of any development or the initiation of a new land use in this district.
- (10) Except as specifically provided for in this Zoning Ordinance, no mobile home or mobile structure shall be placed or occupied in this district.
- (11) It is preferred all services and delivery be made to the rear of the structure or use except under unusual conditions for which service can be made to the side or front of the structure.

- (12) There shall be no overnight display of items for sale that are not normally intended for permanent outdoor use (e.g. upholstered furniture).
 - (13) No commercial or business activity, other than those activities permitted as home occupations, shall be conducted in a unit designed for residential use without consent of the Planning and Zoning Commission.
 - (h) *Parking Regulations.* To preclude destruction of the unique village scale and character of the Downtown Business District by the provision of modern large-scale off-street parking facilities and loading spaces, the off-street parking and loading requirements of this Zoning Ordinance are hereby altered as set forth below as they apply to land uses and structures located in the Downtown Business District:
 - (1) Useable on-street curbside parallel parking spaces on streets upon which the relevant property abuts may be counted toward meeting the parking needs of the abutting use.
 - (2) The number of off-street parking spaces required to be provided may be reduced in the Downtown Business District at the discretion of the Planning and Zoning Commission to one-half that required in other districts for the same use. Notwithstanding this provision for uses within the Downtown Business District, those uses that generally require a larger amount of parking for higher capacity turnover business, such as but not limited to restaurants and bars, shall not be reduced in half, but can be planned for some reduction as approved by the Planning and Zoning Commission as an Administrative Review if allowances are made for parking spaces that can be utilized on adjacent or nearby properties (public or private) that is a reasonable plan for sharing parking spaces.
 - (3) In the Downtown Business District and on properties immediately abutting that district that are separated from the district by an alley, back-out spaces from alleys will be permitted, as parking off of rear alleys in this district is preferable to the provision of parking in more visible locations.
 - (4) No off-street loading spaces shall be required for any use in the Downtown Business District.
- (Ord. No. 2005-20, 6-7-2005; Ord. No. 2017-60 , § 1, 12-19-2017)

1123.01 DEFINITIONS.

[...]

(29) *Commercial entertainment facilities*: Any profit making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges, event space and similar entertainment activities.

[...]

1145.19 OBJECTIONABLE, NOXIOUS, OR DANGEROUS USES, PRACTICES, OR CONDITIONS.

No land or building in any district shall be occupied or used in any manner which creates or contributes to the existence of conditions which are dangerous, injurious, harmful, noxious, or objectionable, or which may otherwise adversely affect surrounding areas or adjoining premises, except that any use permitted by this Zoning Ordinance in a specific zone may be undertaken or maintained if acceptable measures and safeguards to reduce any dangerous or objectionable conditions to acceptable limits, as established in this section, are properly exercised. Specifically, the occupation or use of any land or building in any district shall be in violation of this Zoning Ordinance if one or more of the following conditions are not met:

- (a) *Fire and Explosion Hazards.*
 - (1) All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency. The use or storage of flammable or explosive materials shall be adequately protected by fire-fighting and fire-protection equipment or be such safety devices as are normally required for such activities. Activities involving the use and storage of flammable and explosive materials shall be removed from adjacent facilities or activities to a distance compatible with the potential danger involved.
 - (2) Indoor and outdoor firing ranges, storage, manufacture, and/or reloading of explosive ammunition, shall be permitted conditional uses in planned industrial districts providing special conditional safeguards and under no condition shall be permitted uses in residential or commercial zones.
- (b) *Air Pollution and Radioactivity.* No emission of air pollution or radioactivity shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- (c) *Liquid or Solid Wastes.* No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply and be met.
- (d) *Hazardous Wastes.* Hazardous waste conditions shall not be created or continued that are in violation of the regulations of the Ohio Environmental Protection Agency.
- (e) *Vibrations and Noise.* No uses shall be located and no equipment shall be installed in such a way as to produce vibrations which are discernable by the Zoning Administrator, without instruments, at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to. No objectionable noises, as determined to be such by the Zoning Administrator, shall be created due to volume, frequency, or beat.
- (f) *Odors.* No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. Applicable standards of the Environmental Protection Agency shall be adhered to.
- (g) *Glare, Heat, Exterior Light and Light Pollution.* Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted. No condition of direct or reflected glare shall be created or continued that is visible from any street or

from any adjacent property. Exterior lighting fixtures shall be so shaded, shielded, or directed that the light intensity or brightness shall not be objectionable to occupants or owners of surrounding areas. No more lighting than is necessary will be installed in order to reduce light pollution.

- (h) *Dust, Silt and Erosion.* No condition shall be created or continued in which dust, silt, or other objectionable substances are transferred by wind or water onto any adjacent lot or property in objectionable quantities as determined to be such by the Zoning Administrator.
- (i) *Water Pollution or Contamination.* No condition of water pollution or contamination shall be created or continued that is in violation of the regulations of the Ohio Environmental Protection Agency.
- (j) *Residential Premises.* The exterior of residential premises shall be kept free of all nuisance, and unpermitted improvements and shall reflect a level of maintenance in keeping with the standard of residential lots in the City and shall not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the immediate neighborhood with the accompanying diminution of property values, including, but not limited to, the requirement to maintain the premises, including but not limited to lawns, hedges, and bushes from becoming overgrown and unsightly, and where same constitute a blighting factor depreciating adjoining property and impairing the good residential character of the immediate neighborhood.

(Ord. No. 2017-60 , § 1, 12-19-2017)



**PLANNING & ZONING COMMISSION
MEETING MINUTES
WEDNESDAY, JULY 12, 2023**

CALL TO ORDER/ROLL CALL

Elizabeth Bailik, Chair, called the Planning & Zoning Commission meeting of Wednesday, July 12, 2023 to order at 6:30 p.m. Commission Members present included, Shaun Simpson, Elizabeth Bailik, Ryan Herchenroether, and Stephen MacGuidwin. Commission Members Ferzan Ahmed, David Lester, Ryan Griffin were absent. Staff included Claudia Husak, Planning Manager; and Elise Schellin, Development Planner.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

Elizabeth Bailik opened the floor for visitors to address the Commission on items not on the agenda. Hearing none, Ms. Bailik closed public comment.

APPROVAL OF MINUTES

MOTION: Shaun Simpson moved to approve the June 14, 2023 Planning & Zoning Commission Minutes. Stephen MacGuidwin seconded. Motion passed.

Elizabeth Bailik requested a roll call for passage: Elizabeth Bailik, yes; Ryan Herchenroether, yes but noted a typo on page 4 where it says tapper, that should be taper; Stephen MacGuidwin, yes; and Shaun Simpson, yes.

VOTE: Y – 4 N – 0 AB – 0

CODE UPDATE (2023-20ADM)

Applicant: City of Powell

Request: Review and approval to City Council of an amendment to the Zoning Code to address uses in the Downtown Business District and expectations for the upkeep of residential premises.

Claudia Husak, Planning Manager, gave a summary of the miscellaneous Zoning Code updates and stated the Development Committee reviewed the proposed amendments at their June 6, 2023 meeting and requested staff proceed with processing the Code updates through both the Planning & Zoning Commission and City Council based on Zoning Code Chapter 1131.

She first discussed that staff has been approached by businesses in the Downtown Business District with regards to operating entertainment uses for various locations and as an example mentioned an axe throwing event. Currently the "Use Section" of the Downtown Business District is limited and does not include any such use.

Shaun Simpson asked if this is an indoor amendment only and Ms. Husak stated the outdoor is already addressed and this refers to indoor venues. Mr. Simpson said he is in favor of the update.

Ryan Herchenroether asked about these updates going before the larger update that staff is working on. Ms. Husak stated it is due to the number of request they have received recently. It was decided that these needed addressed now.

Stephen MacGuidwin stated he had no questions and he thinks these are needed changes.

Elizabeth Bailik wants to make sure it does not affect the occupant load and parking in the downtown area and asked about conditional uses. Ms. Husak said they had talked about adding conditional use language, but because they are trying to streamline the process it was not added.

Ms. Husak continued by discussing the Residential Premise Expectations update due to a lack of enforcement ability for the maintenance of residential premises in a manner as to not constitute objectionable and noxious conditions. Further, she gave an example of a recent incident where neighbors complained about the state of a residential property and activities taking place.

Shaun Simpson and Ryan Herchenroether both said they had no questions or comments.

Stephen MacGuidwin asked if the legal department had reviewed the update since the language was taken from another source. Ms. Husak said it was reviewed and they had no issues.

Elizabeth Bailik asked if the language should apply to only residential properties or should it include all properties in the City of Powell. Ms. Husak said that is something they will take into account when it goes to City Council.

Ms. Husak continued by stating staff is recommending the Planning & Zoning Commission recommend approval of the updates to City Council.

Ms. Bailik opened the floor for public comment on the matter. Hearing none, closed public comment.

MOTION: Ryan Herchenroether moved to recommend approval to City Council Case 2023-20ADM for the following Zoning Code updates:

1. Adding the use "Commercial recreation and entertainment facilities, indoors" to Code Section 1145.16.2 DB-DOWNTOWN BUSINESS DISTRICT.
2. Adding the term of "Event Space" to the Commercial entertainment facilities definition in Section 1123.01.
3. Adding "Standards and Maintenance of residential premises" to Section 1145.19 OBJECTIONABLE, NOXIOUS, OR DANGEROUS USES, and PRACTICES OR CONDITIONS.

Shaun Simpson seconded. Motion passed.



**DEVELOPMENT COMMITTEE
MEETING MINUTES
JUNE 6, 2023**

CALL TO ORDER/ROLL CALL

Chair Heather Karr called the Development Committee Meeting of June 6, 2023 to order at 6:30 p.m. Committee Members present included David Lester, Heather Karr, and Daniel Swartwout. Committee Member Shaun Simpson was absent. Also in attendance were City Council Members Jon Bennehoof and Christina Drummond. City staff included Andrew White, City Manager; Jeffrey Tyler, Assistant City Manager/Community Development Director; Aaron Stanford, City Engineer; Claudia Husak, Planning Director; Elise Schellin, Development Planner; and Jason Nahvi, HR Manager.

APPROVAL OF MINUTES

Approval of Development Committee Meeting Minutes of May 2, 2023
[Development Committee Minutes 05022023.pdf](#)

MOTION: David Lester moved to approve the Development Committee Meeting Minutes of May 2, 2023. Daniel Swartwout seconded the motion. The minutes were approved by consensus.

CURRENT BUSINESS

Complete Streets
[DRAFT - Complete Streets_Resolution.pdf](#)

Jeffrey Tyler introduced the draft resolution that went before the Operations Committee previously and it was decided it should come before the Development Committee before going to City Council for approval.

Aaron Stanford talked about Complete Streets being roadways designed, implemented, operated and maintained in an equitable and context sensitive manner, so people of all ages, income and abilities can use them safely. He explained that in 2010, MORPC (Mid-Ohio Regional Planning Commission) adopted a complete streets policy and that the City of Powell's adoption of the policy is important when applying for Federal money through MORPC because they require the adoption of the policy in support of applications for federal funding for streets.

Daniel Swartwout said he is in support of the resolution, however is not comfortable with the draft wording and would like to see it updated to something similar to what other communities have in place.

David Lester likes the direction of this, but agrees the wording should be changed.

Heather Karr supports the Complete Streets policy but agrees wording of the resolution should be updated. She pointed out that previously the City of Powell lost out on a CHIP Grant from Delaware County because it did not have a Complete Streets policy.

The committee asked for an updated resolution to come before them prior to going to City Council for approval.

Miscellaneous Zoning Code Amendments

[Memo_Misc Code Updates.pdf](#)

[1143.16.2_Draft_DB_DOWNTOWN_BUSINESS_DISTRICT.pdf](#)

[1145.19_Draft_OBJECTIONABLE_NOXIOUS_OR_DANGEROUS_USES_PRACTICES_OR_CONDITIONS.pdf](#)

Jeffrey Tyler gave an introduction regarding the miscellaneous code issues, which could be handled by staff rather quickly instead of going through a long zoning code amendment process.

Claudia Husak discussed the two minor updates, one of which pertains to the downtown business district regarding indoor events. The other pertains to objectionable, noxious or dangerous uses as they relate to residential property.

The Committee had a brief discussion and agreed the Zoning Code Amendments should move forward to the Planning and Zoning Commission for recommendation of approval to City Council.

PENDING BUSINESS

None

FUTURE BUSINESS

Jeffrey Tyler reminded the Committee there would not be a July meeting due to the July Fourth holiday. The next meeting of the Development Committee will be held on Tuesday, August 1, 2023 at 6:30 p.m.

ADJOURNMENT

Daniel Swartwout moved to adjourn the meeting. David Lester seconded the motion. Meeting was adjourned at 6:56 p.m. by a consensus vote of 3-0-0.

MINUTES APPROVED: AUGUST 1, 2023

Heather Karr, Date
Chair

Jason Nahvi, Date
Acting City Clerk