

SUBJECT: A report and recommendation on the proposed text amendment to the Cincinnati Zoning Code to create a new zoning district entitled “Parks and Recreation”; amendments to Chapter 1401 *Definitions*, Chapter 1423-13 *Buffer Yards* and Chapter 1425-27 *Parking Lot Screening*; and a zone change on 3,537 City-owned parcels throughout the City of Cincinnati.

GENERAL INFORMATION:

Petitioner: Cincinnati City Council

Purpose: To create a separate Parks and Recreation zoning district to ensure that City-owned parks and recreation areas cannot be sold to private entities without a public process.

BACKGROUND:

On February 13, 2004, a new zoning code for the City of Cincinnati went into effect. As the old code, the new code did not have a special zoning district for parks and recreation areas. Rather, parks were listed as permitted uses in all residential zones and City-owned parks or recreation areas were zoned to be consistent with the surrounding zoning. Larger parks and recreation areas were zoned SF-20 Residential Single Family.

During City Council’s public hearings for the new code, a group of representatives from various Community Councils voiced their concern about the new code not having a separate district for parks and recreation areas. A primary concern was that the City could sell park, recreation, or open space property for development without adequate notice to the surrounding community. Because staff and community members had spent many years writing, reviewing and editing the new zoning code, City Council approved the new code without the separate district for parks and recreation areas and directed Planning Staff and the Planning Commission to study and report back to City Council on the creation of a public park and recreation zoning designation for land owned by the Park Board or Recreation Commission.

On April 7, 2006, City Planning Commission reviewed three options for the direction of the zoning study:

1. Make No Changes to the Code Text
2. Create a New Zoning District
3. Create a New Overlay

City Planning Commission determined that there is a need to provide some level of protection to the City’s public parks and recreation spaces, and that a separate designation for parks and recreation areas is the best way for the zoning code to address the issue. The Commission directed Staff to convene a working committee to prepare the district guidelines and map amendments for approval by City Planning Commission, the Park Board, the Cincinnati Recreation Commission, and City Council.

EXISTING CONDITIONS:

Many of the larger parks and recreation areas, such as Eden Park, Ault Park, Burnet Woods, Washington Park, California Golf Course, and Alms Park, are currently zoned SF-20. Other parks, recreation areas, or playfields, such as Pleasant Ridge Park (SF-6), Owl’s Nest Park (RMX), Ziegler Playfield (CN-P), Reeves Golf Course (ML) and Bicentennial Commons (RF-R and DD) are zoned to be compatible with surrounding zones.

PUBLIC AND STAFF COMMENT:

A public Staff Conference was held on May 25, 2005. Attendees voiced their concern about park or open space property being sold without proper public notification, and their concern that the City may prioritize the need for funds over the importance of preserving greenspace. Although the Park Board and Recreation Commission do not sell or make improvements to a park or recreation area without gaining Community Council support, it was suggested that this is done only out of courtesy and is not policy. The Park Board and Recreation Commission also have a policy of no net-loss of greenspace, meaning that each acre of park or recreation land that is redeveloped must be replaced in the same neighborhood at a 1:1 ratio, minimally. Some community members

present questioned whether this is an adopted city policy. It was also mentioned that Community Councils are consulted, but there may not be adequate outreach to surrounding property owners who may not participate in their Community Council or cannot attend the meeting when the property is discussed.

On March 14, 2006, Staff held a special update meeting to present and gain input on the three options eventually presented to City Planning Commission on April 7, 2006.

In September 2006, Planning Staff contacted all parties previously interested in the Park and Recreation District and invited them to become a part of the working group. Thirteen citizens indicated an interest and attended the working group meetings along with Staff from the Department of Community Development and Planning, Cincinnati Recreation Commission, Cincinnati Park Board, and Law Department.

The draft of the proposed district was presented to the Cincinnati Recreation Commission and Cincinnati Park Board in early 2007. The Cincinnati Recreation Commission voted to support the new district on March 20, 2007. The Cincinnati Park Board voted to support the new district on April 19, 2007.

ANALYSIS OF PROPOSED CHANGE:

The proposed change involves the creation of an entirely new zoning designation, including the preparation of text with development standards and map amendments for all public parks and recreation areas in the City. The new designation includes only those properties owned or maintained by the Cincinnati Recreation Commission or Cincinnati Park Board and designated as public parks or recreation areas; it does not include semi-public or private land.

The working committee reviewed codes from other cities that use special zoning districts as a way to protect parks and open space. The committee considered regulations from such cities as Pittsburgh, Pennsylvania; Toledo, Ohio; Chicago, Illinois; Rochester, New York; Covington, Kentucky; and, Erlanger, Kentucky when designing the proposed new district. As helpful these other codes were, it was necessary to craft a new district that meets the needs of Cincinnati's parks and recreation facilities specifically. Therefore, the new district does not merely duplicate that of another city.

A primary concern when drafting the proposed new district was that it must not hinder or over-regulate the activities of the Park Board or CRC. The purpose of the zoning district is intended to protect parks and recreation areas, not regulate their activities beyond the guidelines already in place. This issue sparked quite a bit of discussion among the members of the working committee, some of whom felt that the purpose of the new district should be to preserve open space, and therefore wanted the new district to be more restrictive than the SF-20 zone in both permitted uses and other development regulations.

Definition

While amendments were under consideration, it was a logical time to make sure that the definition of Park and Recreation Facilities was correct as well. In order to more accurately describe Parks and Recreation Areas in the City of Cincinnati, Staff proposes a small change to include *wavepools* and *spraygrounds*. These water features, which allow for the recreational aspect of a pool without the danger of a deep-water tank, may become more prevalent in recreation areas in future years. *(Please see Attachment 1: Proposed Amendment to Chapter 1401: Definitions)*

Permitted Uses

A review of the code determined that some uses that are integral to the operation and maintenance of parks and recreation areas are not permitted in the SF-20 zoning district. In order to create a zoning district that reflects the needs of Cincinnati's parks and recreation areas and does not create an excess of nonconforming uses, it is necessary to permit some uses not permitted in any residential district. For example, use classifications such as Cemeteries, Cultural Institutions, Government Facilities and Offices, Public Maintenance Facilities, Full Service Restaurants, and Funeral and Interment Services are listed as permitted uses, conditional uses, or uses permitted with limitations. *(Please see Attachment 2: Chapter 1416: Park and Recreation District)*

Rationale for these uses is detailed below:

Cemeteries – Permitted with a Limitation

Existing cemeteries only are permitted uses. The Cincinnati Park Board currently maintains three cemeteries, and in the event that ownership or maintenance of any other existing cemetery is transferred to the Park Board, those cemeteries would also be permitted uses. The limitation is in place to discourage parks or recreation properties from being converted to cemeteries.

Cultural Institutions – Permitted

As Cincinnati's parks and recreation areas are often home to our City's most recognized Cultural Institutions (such as the Cincinnati Art Museum, Playhouse in the Park, and Krohn Conservatory in Eden Park), they should be included as permitted uses in a new PR district. Any future Cultural Institutions would be permitted without requiring conditional use approval. This was one use upon which not all members of the working committee agreed. Some members felt that conditional use approval should be required so as not to allow Cultural Institutions in inappropriate locations. Because the location of a Cultural Institution in a park or recreation area would require such intense public dialogue between the Community Council and surrounding property owners before approval by the Park Board or CRC, City Staff felt that the additional process of a conditional use hearing would be excessive enough to constitute over-regulation. Some working committee members staunchly disagree with this position.

Government Facilities and Offices: Offices – Permitted with a Limitation

Office uses for the administration of Parks and Recreation Facilities, their lessees and concession operators are permitted. All other Government Offices require conditional use approval. The Park Board and CRC each have offices located on park and recreation property. Additionally, both also lease space to users and concessions (such as the Hillside Trust) that support and further the goals of and provide additional income to the Park Board and Recreation Commission.

Public Maintenance Facilities – Permitted with a Limitation

Public Maintenance Facilities for the maintenance of Parks and Recreation Facilities are permitted. All other Public Maintenance Facilities require conditional use approval. The Park Board and CRC both keep vehicles and other maintenance equipment on-site for maintenance of their properties. These uses are integral to the daily operations of parks and recreation facilities. Any new Public Maintenance Facilities located on Park Board or CRC properties that service any other public department would require conditional use approval.

Full Service Restaurants – Conditional

In the event that the Park Board or CRC wish to enhance an existing or future park or recreation facility with a full service restaurant, it would require conditional use approval. A full service restaurant is defined as a sit-down restaurant where patrons order and are served while seated and pay after eating. Limited service restaurants, where table service is not provided and patrons pay before eating, are not permitted. Any snack bars or other food concessions located within parks or recreation areas are not included in this classification, but are already permitted as defined in *Park and Recreation Facility*.

Funeral and Interment Services – Permitted with Limitations

Permitted only as an accessory use to existing Cemeteries. Some existing cemeteries may provide this service. Funeral and Interment Services are not encouraged to be developed in any other existing or new park and recreation facilities.

Development Regulations

Maximum Height

The maximum height of structures in the proposed new district is 35 feet. This is the maximum height allowed in all Single Family zones.

Minimum Yards

The proposed PR District is less restrictive than Single Family zones with regard to setback requirements. The Single Family zones require minimum lot sizes of 25-70 feet, front yard setbacks of 5-30 feet, side yard setbacks of 0/5-10/20, and rear yard setbacks of 20-35 feet. The working group considered various options for setbacks in the proposed PR district, including a chart basing setbacks on lot size, which is similar to the Single Family district. However, it became clear that enforcing setbacks on parks and recreation facilities would be difficult and perhaps a hindrance. One dilemma that arose is that many parks or recreation areas are located in areas with multiple access points or on private roads so that determining a front, side or rear yard would be problematic. Also, most new parks and recreation facilities do not conform to a specific type, but feature different facilities and elements as designed by the surrounding neighborhood and supported by the surrounding property owners and Community Council. This intensive public review before approval by the Park Board or Recreation Commission may negate the need for such strict regulation about structure location and constitute over-regulation.

Buffer Yards and Parking Lot Screening

In order to protect parks and recreation facilities from development on adjacent property, Staff also proposes amendments to the text in Chapter 1423-13 *Buffer Yards* and Chapter 1425-27 *Parking Lot Screening*. Amendments to Schedule 1423-13-A: *Required Buffer Yards* adds the PR district as a district that requires more intensive uses to buffer themselves when adjoining the less intensive district. (*Please see Attachment 3: Proposed Amendment to Schedule 1423-13-A: Required Buffer Yards*). Amendments to Chapter 1425-27 *Parking Lot Screening* require that parking lots on adjacent properties with more than four spaces provide buffering when adjoining a PR district. (*Please see Attachment 4: Proposed Amendment to 1425-31 Parking Lot Screening*).

Application of Parks and Recreation District

The PR designation will apply only to City-owned properties designated as parks or recreation areas and operated by the Cincinnati Park Board or Cincinnati Recreation Commission. Initially, it will apply to 3,537 parcels that have been certified as owned by the City and under the purview of the Cincinnati Park Board or Cincinnati Recreation Commission. Other parcels are owned by the City and used as parks or recreation facilities, but may not be classified as such in the City's GIS mapping system. Additional work is necessary to officially determine that these parcels are owned by the City and correct them in the GIS system. Once this work is complete, these additional parcels will be changed to the PR designation.

Any new parcels purchased or accepted by the City as new parks or recreation facilities must be petitioned for a change to the PR District upon their purchase or acceptance by City Council. This excludes any parks or recreation facilities located within Planned Development (PD) Districts (such as the Cincinnati Riverfront Park within the proposed Banks Development) as the PD guidelines will govern the use of the property and any change in use would require an amendment to the Concept Plan.

It is important to note that a separate zoning district cannot guarantee that public parks or recreation areas will never be sold or redeveloped. The proposed PR district will only require any future developer to obtain approval for a zone change before redevelopment can take place.

CONCLUSIONS:

1. On April 7, 2006, the City Planning Commission determined that a Parks and Recreation Zoning District would provide a modicum of protection by requiring any non-park or recreation related development to go through a public zone change process before any development can occur.
2. The proposed PR District will allow City-owned parks and recreation areas to operate without over-regulating the Park Board and Cincinnati Recreation Commission.

3. The proposed PR District has been written specifically for parks and recreation areas. As presently written, the code allows these uses in many zones but requires parks and recreation areas to conform to many different guidelines. This new district will simplify the regulations.
4. The PR designation will apply only to City-owned properties designated as parks or recreation areas and operated by the Cincinnati Park Board or Cincinnati Recreation Commission.
5. The PR district will initially apply to 3,537 parcels that have been certified as owned by the City and under the purview of the Cincinnati Park Board or Cincinnati Recreation Commission. Additional parcels will be added to this designation at a later date after further research has determined their eligibility.
6. Amendments to the text in Chapter 1423-13 *Buffer Yards* and Chapter 1425-27 *Parking Lot Screening* are necessary to include guidelines for development in districts adjoining the new PR District.

RECOMMENDATION:

Department of Community Development and Planning staff recommends that City Planning Commission take the following actions:

ADOPT the text amendment to Chapter 1401 *Definitions* to include *wavepools* and *spraygrounds* as Park and Recreation Facilities (See Attachment 1);

ADOPT the text amendment to include the Park and Recreation (PR) Zoning District in the Cincinnati Zoning Code (See Attachment 2);

ADOPT the text amendment to Chapter 1423-13 *Buffer Yards* to include regulations for uses in districts adjoining the Parks and Recreation District (See Attachment 3);

ADOPT the text amendment to 1425-27 *Parking Lot Screening* to include regulations for uses in districts adjoining the Parks and Recreation District (See Attachment 4); and,

APPROVE the zone change for certain property owned by the City of Cincinnati to Park and Recreation (PR) (See Attachment 5).

APPROVED:

Respectfully submitted,

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Attachments

Attachment 1: Amendment to Chapter 1401: Definitions

§ 1401-01-P7. Park and Recreation Facility.

"Park" and "recreation facility" means a park, playground, recreation facility and open space. This classification includes community centers, playing fields, courts, gymnasiums, swimming pools, **wave pools, spraygrounds**, picnic facilities, golf courses and country clubs, zoos and botanical gardens, as well as related food concessions.

Chapter 1416. Park and Recreation District

§ 1416-01. PURPOSES. 1

§ 1416-05. LAND USE REGULATIONS..... 1

§ 1416-07. DEVELOPMENT REGULATIONS..... 3

§ 1416-01. Purposes.

The general purposes of the Park and Recreation district are to:

- (a) Preserve, protect and enhance a system of public parks, parkways, greenspace, and recreation areas
- (b) Preserve natural and scenic areas, and protect sensitive natural resource areas.

§ 1416-05. Land Use Regulations.

Schedule 1416-05 below prescribes the land use regulations for the PR District. The regulations are established by letter designations as follows:

- (c) "P" designates permitted uses. These uses may be subject to additional regulations as indicated.
- (d) "L" designates uses that are permitted, subject to certain limitations. Numeric suffixes refer to limitations listed at the bottom of Schedule 1416-05.
- (e) "C" designates uses permitted only after review and approval of the conditional use by the Zoning Hearing Examiner. These uses may be subject to additional regulations as indicated.

Use classifications are defined in Chapter 1401, Definitions. Use classifications not listed in Schedule 1416-05 below are prohibited.

Schedule 1416-05: Use Regulations – Park and Recreation District

Use Classifications		PR	Additional Regulations
Public and Semipublic Uses			
Cemeteries		L1	
Cultural institutions		P	
Government Facilities and Offices	Offices	L2	
Parks and Recreation Facilities		P	
Public Maintenance Facilities		L3	
Schools, Public or Private		C	
Commercial Uses			
Restaurants, Full Service		C	
Funeral and interment services		L4	
Wireless communication antenna		L5	See § 1419-33
Wireless communication tower		C	See § 1419-33
Accessory Uses			
Any accessory use not listed below		L6	
Drive box		L7	
Exterior lighting		P	See § 1421-39
Fences and walls		P	See § 1421-33
Refuse storage areas		P	See § 1421-35
Nonconforming Uses			See Chapter 1447

Specific Limitations

- L1 Only existing cemeteries allowed.
- L2 Office uses for the administration of Parks and Recreation Facilities, their lessees and concession operators are permitted. All other Government Offices require conditional use approval.
- L3 Public Maintenance Facilities for the maintenance of Parks and Recreation Facilities are permitted. All other Public Maintenance Facilities require conditional use approval.
- L4 Permitted only as an accessory use to existing Cemeteries.
- L5 Antenna height may not exceed 20 feet; greater height requires a conditional use approval. The antenna may be attached to a multi-family, public and semi-public, public utility, a commercial or industrial building or structure.
- L6 Accessory uses determined by the Director of Buildings and Inspections to be customarily incidental to a use of the district are permitted. All others require conditional use approval.
- L7 Accessory to a public or semi public use provided that the drivebox is at least 100 feet from any property used for residential purposes.

§ 1416-07. Development Regulations.

Schedule 1416-07 below prescribes the development regulations for the PR district, including lot area for every unit, minimum lot width, setbacks and maximum height. Where an overlay district applies, the provisions of that district take precedence if there is conflict with the standards of this Section.

Schedule 1416-07 Development Regulations – Park and Recreation District

“Yes” means additional regulations apply.

Regulations	PR	Additional Regulations
<i>Building Form and Location</i>		
Maximum building height (ft.)	35	
Minimum yards (ft.)	0	
<i>Vehicle Accommodation - Driveways and Parking</i>		
Parking lot landscaping	Yes	See § 1425-31
Parking and Loading	Yes	See Chapter 1425
<i>Other Regulations</i>		
Buffering along district boundaries	Yes	See § 1423-13-A
Accessory uses and structures	Yes	See Chapter 1421
General site standards	Yes	See Chapter 1421
Landscaping and buffer yards	Yes	See Chapter 1423
Nonconforming uses and structures	Yes	See Chapter 1447
Parking and loading	Yes	See Chapter 1425
Signs	Yes	See Chapter 1427
Additional development regulations	Yes	See Chapter 1419

Attachment 3: Amendment to Schedule 1423-13-A: Required Buffer Yards

District of Proposed Use	Adjoining District	Yard Condition	Buffer Type Required
RM Districts	SF	Side or Rear	A
	<i>PR (except RMX)</i>	<i>Side or Rear</i>	<i>A</i>
O District	SF	Side or Rear no Loading	A
		Any Yard with Loading	B
	RM	Side or Rear no Loading	A
		Any yard with Loading	B
	<i>PR</i>	<i>Side or Rear no Loading</i>	<i>A</i>
		<i>Any yard with Loading</i>	<i>B</i>
	Other Districts	Front, Side or Rear	None
CN-P and CC-P	SF	Side or Rear no Loading	A
		Any Yard with Loading	A
	RM	Side or Rear no Loading	A
		Any Yard with Loading	A
	<i>PR</i>	<i>Side or Rear no Loading</i>	<i>A</i>
		<i>Any yard with Loading</i>	<i>B</i>
	Other Districts	Front, Side or Rear	None
CN-M, CC-M and CC-A	SF	Side or Rear no Loading	B
		Any Yard with Loading	C
	RM	Side or Rear no Loading	B
		Any Yard with Loading	C
	<i>PR</i>	<i>Side or Rear no Loading</i>	<i>B</i>
		<i>Any yard with Loading</i>	<i>C</i>
	Other Districts	Front, Side or Rear	None
CG-A	SF	Side or Rear no Loading	C
		Any Yard with Loading	D
	RM	Side or Rear no Loading	C
		Any Yard with Loading	D
	<i>PR</i>	<i>Side or Rear no Loading</i>	<i>C</i>
		<i>Any yard with Loading</i>	<i>D</i>
	Other Districts	Front, Side or Rear	None
DD Subdistricts	SF	Side or Rear no Loading	C
		Any Yard with Loading	D
	RM	Side or Rear no Loading	A
		Any Yard with Loading	B
		Other Districts	Front, Side or Rear

M Districts	SF and RM	Side or Rear	D
		Front No Storage	None
		Front with Storage	C
	O and C	Side or Rear	A
		Front No Storage or Loading	None
		Front with Storage or Loading	B
	DD	Side or Rear	A
		Front No Storage or Loading	None
		Front with Storage or Loading	B
	PR	Side or Rear	D
		Front No Storage	None
		Front with Storage	C
	Other Districts	Front, Side or Rear	None
RF Districts (Except Residential Uses of RF-R District)	SF, RM and Residential Uses of RF-R	Front or Side	D
	PR	Front or Side	D
	O and C	Front or Side	C
	DD	Front or Side	C
	Other Districts	Front or Side	None

Attachment 4: Amendment to § 1425-27. Parking Lot Screening

§ 1425-27. Parking Lot Screening.

In Residential Districts, a screen fence or solid wall is required for parking areas for four or more vehicles which adjoin or face any other premises, either abutting or directly opposite across-the-street, situated in any Residential *or Parks and Recreation District*. The fence or wall must be at least four feet and a maximum of six feet in height and must be maintained in good condition. A combination of a four-foot high berm with three-foot high continuous evergreen hedgerow or four-foot high continuous evergreen hedgerow may be substituted for screen fencing and walls. The fence is not required along that side of the property where one of the following conditions exist:

- (a) **Abutting Parking Lot.** The abutting property is developed with a parking lot within 25 feet of the common property line for four or more vehicles.
- (b) **Grade Differential.** The abutting property has an average elevation of four feet or more above the parking area surface, within an average horizontal distance of eight feet from the parking area.
- (c) **Buffer Yard.** The requirements of § 1423-13, Required Buffer Yards are satisfied.