

DEPARTMENT OF REGIONAL PLANNING

January 4, 2018

TO: Staff

FROM: Dennis Slavin ^{DLS}
Acting Director

ZONING ORDINANCE POLICY NO. 2018-01 PARKING REQUIREMENTS FOR PROPOSED USES WITHIN EXISTING COMMERCIAL BUILDINGS NONCONFORMING DUE TO PARKING

The purpose of this interpretation memorandum is to clarify parking requirements for establishments proposing a new use within an existing building nonconforming due to parking.

Background

When a business owner applies for a change of use, the Department of Regional Planning ("Department") generally requires the site to comply with current parking standards. Current parking standards for entertainment, assembly, and dining uses require a ratio of one parking space per three occupants or a minimum of 10 parking spaces, whichever is greater (Zoning Code Section 22.52.1100 A). However, many existing commercial buildings were constructed prior to the imposition of parking requirements in the early- to mid-1900s. When parking requirements were implemented, the County required less parking for these same uses than it does today. As such, many properties that may have accommodated the same uses previously and were in compliance with the Zoning Code at that time, may not have adequate space to provide the additional on-site parking required by today's Zoning Code. Amendments to the Zoning Code that increased parking requirements for certain uses, such as selling food and drinks, rendered many commercial buildings with dining uses nonconforming due to parking.

Issue

Zoning Code Section 22.56.1510 E.1 allows conforming uses in buildings nonconforming due to parking provided the uses have the same or lesser parking requirements as

existing or previous uses. This memorandum helps staff determine which parking standards apply when a use renders a building nonconforming due to parking.

Interpretation

In determining whether a use proposed within commercial buildings requires the same or lesser parking than previous uses, one would need to ascertain what the prior uses in such commercial building were. Determining the various uses within commercial buildings is often not feasible because County approvals were not always required for various commercial uses, and where approvals may have been required, limited County records exist to verify such approved uses. Without information on previous commercial uses, it is not possible to determine whether the proposed use has the same or lesser parking requirement.

Thus, in the absence of information indicating previous uses and their associated parking requirements, the Department determines parking requirements for proposed commercial uses in commercial buildings nonconforming due to parking based on the parking requirements for the proposed use in effect at the time the building was constructed. This treats the use as if it were a continuing use rather than a change in use. Thus, the same parking would be required for the proposed use as was required for that use at the time the building was constructed.

Unless there were previous discretionary entitlements or evidence that the previous commercial uses required less parking than is currently required for eating or dining establishment uses, parking for proposed eating establishments shall be based on the requirements for such use in effect at the time the commercial building was legally constructed. If there is evidence that previous uses required less parking, then the applicant must either comply with current standards or apply for a parking permit to deviate from the standards.

For example, prior to 1970, parking requirements for eating or drinking establishments were the same as for general commercial uses; however, subsequent amendments to commercial parking requirements differentiated dining uses (September 22, 1970 amendment) from establishments that sell food or drink for off-site consumption with no seating or on-site eating (October 14, 1983 amendment). These amendments increased parking requirements for said uses; thus, many commercial properties that had dining uses were rendered nonconforming due to parking. Applying the vehicle parking

requirements in effect at the time a building was constructed, for buildings nonconforming due to parking where previous uses cannot be reliably determined, is consistent with Zoning Code Section 22.52.1005 A.1. Allowing such application will alleviate an undue burden on small business owners and have a negligible impact on the community, since the impacts of many food and drink establishments are similar to retail uses.

Implementation

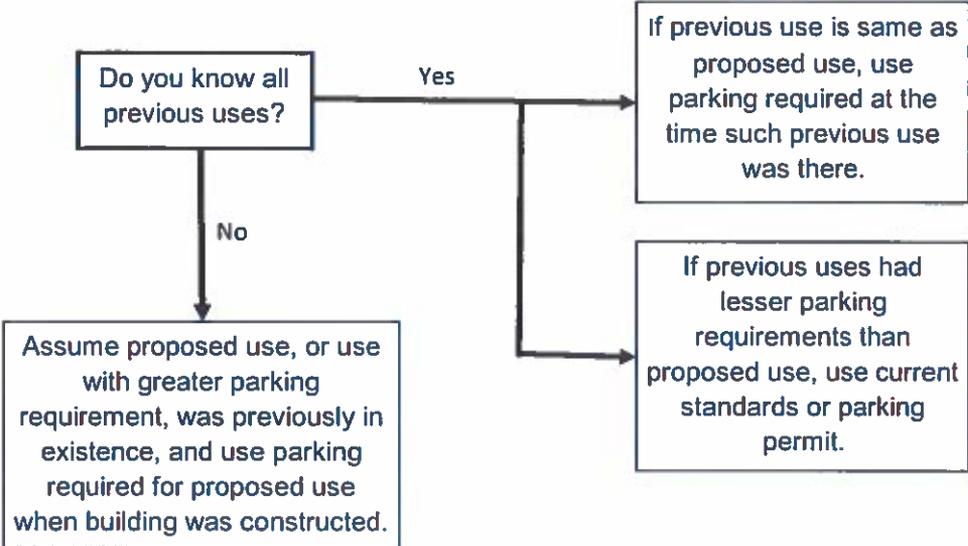
Department approval through the site plan review process is necessary to determine and acknowledge the applicability of Zoning Code Section 22.52.1005 A.1 and its companion provision, Zoning Code Section 22.56.1510 E.1.

Unless there were previous discretionary entitlements or other evidence identifying previous uses, parking for proposed eating or drinking establishments within existing commercial buildings nonconforming due to parking shall be based on the requirements in effect at the time the building was legally constructed, as follows:

1. Buildings legally constructed prior to September 22, 1970. Prior to September 22, 1970, all restaurant parking requirements were listed under general commercial parking. Therefore, dining uses in buildings constructed prior to that date would be subject to the general commercial parking standard in effect at the time the building was constructed, which was one space plus adequate access for each 400 square feet of floor area.
2. Buildings legally constructed from September 22, 1970 through October 13, 1983. On September 22, 1970, the Board of Supervisors adopted an urgency ordinance that specifically distinguished assembly, entertainment and dining uses from other commercial uses. The urgency ordinance stated that a proposed establishment selling food or drink, known then as a dining use, within a commercial building constructed between September 22, 1970 and December 18, 1970 would require parking pursuant to then-Zoning Code Section 745.5, requiring one parking space for each 45 square feet of floor area where seats are not fixed, or one space for every three fixed seats, with both scenarios requiring a minimum of 10 parking spaces. These standards were continued until October 13, 1983 through the adoption of Ordinance No. 10,139.

- 3. Buildings legally constructed from October 14, 1983 through October 15, 1988. On October 14, 1983, Section 22.52.1110 was added to the Zoning Code. This section allowed establishments selling food or drink only for off-site consumption to use the general commercial parking requirements in effect at that time, which were one parking space per every 400 square feet, with an approved parking permit. At that time, dining uses with on-site dining required one parking space per every three persons based on occupancy load.

- 4. Buildings legally constructed from October 16, 1988 to Present - Proposed eating establishments are subject to current parking requirements pursuant to Zoning Code Section 22.52.1110. This policy memo does not supersede or apply to specific plan parking requirements or community standards district regulations with specific parking requirements for establishments selling food and/or drinks for off-site or on-site consumption. It shall not apply to buildings not legally established, new building construction or expansion, uses which require discretionary entitlements, or commercial buildings nonconforming due to use. It does not authorize the reduction of existing parking spaces nor does it apply to rebuilds as specified in the Zoning Code.



Interpretation Policy Memo No. 2018-01
January 4, 2018
Page 5

DS:JS:CS:JJ:GMN:cr:lm

Attachments:

1. History of Parking Provisions for Eating Establishments
2. Los Angeles County Zoning Code Sections 22.52.1100, 22.52.1110, 22.56.1510
E.1

S_GINA_01042018_INTERPRETATION POLICYMEMO

**ZONING ORDINANCE POLICY NO. 2018-01
ATTACHMENT 1**

HISTORY OF PARKING PROVISIONS FOR EATING ESTABLISHMENTS

October 16, 1988 to Present

Zoning Code Section 22.52.1110 Entertainment, assembly and dining (including: dining rooms, cafes, cafeterias, coffee shops, nightclubs, restaurants, bars, cocktail lounges, soda fountains, tasting rooms, taverns, and other similar dining/drinking establishments):

- 1 space for every 3 persons based on occupant load for on-site consumption
- 1 space for every 250 square feet for off-site consumption
- Minimum 10 spaces for other uses

October 14, 1983 to October 15, 1988

Zoning Code Section 22.52.1110 was added to the Code and became effective on October 14, 1983. All the words are the same as above, except that the requirement for off-site consumption was initially 1 space per 400 square feet.

January 2, 1981 to October 13, 1983

Zoning Code Section 703.11 was amended (as underlined) to read:

Parking - Assembly, Entertainment and Dining

"Except as otherwise provided in this Article, every structure used for amusement, assembly, drinking, eating or entertainment shall provide on the same lot or parcel one (1) or more automobile parking spaces:"

- a. for each 45 square feet of floor area for uses where seats are not fixed, including but not limited to:
...
 2. dining rooms, cafes, cafeterias, coffee shops, nightclubs, restaurants and other similar uses;
 3. drinking establishments, bars, cocktail lounges, nightclubs, soda fountains, tasting rooms, taverns, and other similar uses;
- b. for every 3 fixed seats. Each 18 inches of fixed bench shall be the equivalent of one seat.

A business containing a use enumerated in this section shall have a minimum of 10 parking spaces."

September 22, 1970 to December 17, 1970 (urgency) and December 18, 1970 to January 1, 1981

Section 745.5 was added to the Zoning Code, effective September 22, 1970, as an urgency ordinance and as a permanent ordinance on December 18, 1970. This is the first addition that specifically distinguishes assembly, entertainment and dining uses from other commercial uses for parking. It lists the same provisions as 703.11 above, except that the wording started with: "Every structure used for amusement, assembly, drinking, eating . . ." Zoning Code Section 745.5 was renumbered to 703.11 in 1977, but the provisions remained intact. Prior to 1970, all restaurant parking was listed under general commercial parking (Section 749).

July 27, 1958 to September 21, 1970

"Zoning Code Section 749. Other Commercial Uses.

"Except as otherwise provided in this Article, every lot or parcel of land which is used for a use permitted in Zone C-4 but not permitted in Zone R-4 . . . shall have on the same lot or parcel of land, an area equal to the area so used, which area shall be developed and used for the parking of motor vehicles in conjunction with such other use. Such area also shall be of sufficient size so that it contains one automobile storage space plus adequate access thereto for each four hundred square feet of floor area of any building or structure so used."

January 12, 1950 to July 26, 1958

Zone C-H (if a dining establishment is located within a hotel or motel)

Zone C-1 to C-4 – all parking requirements must comply with Zone P (Section 260-261) *No numbers were given for different types of commercial businesses. Generally, for most commercial zones,* . . . an area not less than the area otherwise used for a use not permitted in Zone R-4, except in the case of electrical substations and similar public utilities in which there are no offices or other places visited by the public, is developed and used for the parking of motor vehicles in conjunction with such other use. Such area used for parking shall be developed and used as provided in Section 261."

Section 261 only provides requirements for paving materials, fences and walls, and lighting.

April 17, 1941 to January 11, 1950

According to 1944, 1946, and 1948 Zoning Ordinances:

Section 41 Zone C-1 Regulations: "Conditions under which the use described in Section 40 are permitted to be erected, constructed, ore established in Zone C-1 as follows:

- (d) That provision be made for free off-street automobile storage or parking space sufficient in area to accommodate the automobiles of the operators and patrons of any such commercial use."

The same rules applied for Zones C-2, C-3, C-4, M-1, M-2 and M-3. No required numbers of spaces for each type of business were given except for public assembly uses, but dining/drinking establishments were not defined as public assembly, and no entertainment was allowed in conjunction with a cafe or restaurant.

Prior to 1941

Nothing in the earlier Zoning Ordinances addressed parking or storage of automobiles/vehicles in commercial zones.

**ZONING ORDINANCE POLICY NO. 2018-01
ATTACHMENT 2**

LOS ANGELES COUNTY CODE SECTIONS

22.56.1510 - Regulations applicable.

The following regulations shall apply to all nonconforming uses and to all buildings or structures nonconforming due to use and/or standards as specified herein:

A. Continuation. A nonconforming use or a building or structure nonconforming due to use and/or standards may be continuously maintained provided there is no alteration, enlargement or addition to any building or structure; no increase in occupant load; nor any enlargement of area, space or volume occupied by or devoted to such use, except as otherwise provided in this Title 22.

B. Additions to a Nonconforming Use or a Building or Structure Nonconforming Due to Use and/or Standards. This section does not authorize the extension, expansion, or enlargement of the area of land or the area within a building or structure devoted to a nonconforming use, or the alteration, enlargement of, or addition to a building or structure nonconforming due to use and/or standards, or permit the addition of land, buildings, or structures used in conjunction with a nonconforming use or a building or structure nonconforming due to use and/or standards except:

1. To the extent required by a subsequently enacted or subsequently adopted law, ordinance or regulation, and the director so finds. Such additions as are permitted by this subsection shall not be construed to extend the termination date of the subject nonconforming use, or a building or a structure nonconforming due to use.

2. Additions may be made to a building nonconforming due to use and/or standards which is designed for and used as a residence without requiring any additional parking space or driveway paving; provided, that such additions neither increase the number of dwelling units in such structure, nor occupy the only portion of an area which can be used for required parking space or access thereto. Notwithstanding the foregoing, a second unit in compliance with Part 16 of Chapter 22.52 may be developed on a lot or parcel of land containing a single-family residence nonconforming due to standards, provided that where the single-family residence is nonconforming due to parking standards, sufficient parking shall be provided to ensure that both the single-family residence and the second unit comply with the applicable provisions of Section 22.52.1180.

C. Additions to a Building or Structure Nonconforming Due to Standards. Additions may be made to a building or structure nonconforming due to standards which is not in violation of any provisions of this Title 22 and is nonconforming only because it

does not meet the following standards of development as provided herein:

1. Yards, provided such addition or expansion is developed pursuant to the yard requirements of this title;

2. Building height limits, but not including floor area ratio or maximum lot coverage provisions, provided such addition or expansion is developed pursuant to the height requirements of this title;

3. Parking facilities including width of access and paving, improvement, number of spaces and landscaping of parking areas; provided, that parking spaces for such addition, increase in occupant load or expansion shall be developed pursuant to the provisions of Part 11 of Chapter 22.52. Such addition or expansion shall not occupy the only portion of an area which can be used for the required parking space or access thereto. Where the number of parking spaces provided prior to such addition is sufficient to comply with said Part 11 of Chapter 22.52 after such expansion, the existing development of such parking facilities shall be deemed to comply with this subsection;

4. Such additions as are permitted by this subsection shall not be construed to authorize the modification of any provision of this title nor extend the termination date of the subject nonconforming use.

D. Conforming Uses in a Building or Structure Nonconforming Due to Standards Other Than Parking. A building or structure nonconforming due to standards other than parking may be occupied by any use permitted in the zone in which it is located, subject to the limitations and conditions governing such use as specified in the zone.

E. Conforming Uses in a Building or Structure Nonconforming Due to Parking. A building or structure nonconforming due to parking standards may be occupied by any use permitted in the zone in which it is located subject to the limitations and conditions governing such use as specified in the zone; provided, that:

1. The use has the same or lesser parking requirement as the existing or previous use; or

2. If the use has a greater requirement than the existing or previous use, a sufficient number of additional parking spaces is developed to accommodate the increased amount of space required by the new use.

F. Buildings or structures, for which a valid building permit has been issued prior to the effective date, or operative date where later, of the ordinance codified herein, or any amendments thereto, making such building or structure nonconforming due to use and/or standards, may be completed and used in accordance with the provisions of this title, provided:

1. That such construction or the proposed use of such building or structure under construction is not in violation of any other ordinance or law at said effective or operative date; and

2. That such building or structure is completed within:

a. One year from said effective or operative date, if two stories or less in height and not more than 70,000 square feet in floor area, except that one additional month shall be permitted for each 15,000 square feet in excess of said 70,000 square feet,

b. One and one-half years from said effective or operative date, if three to six stories in height and not more than 100,000 square feet in floor area, except that one additional month shall be permitted for each 15,000 square feet in excess of said 100,000 square feet,

c. Two years from said effective or operative date if seven stories or more in height and not more than 150,000 square feet in floor area except that one additional month shall be permitted for 15,000 square feet in excess of said 150,000 square feet;

3. That such building or structure is completed in accordance with the plans and specifications on which such building permit was issued.

G. Repair of Damaged or Partially Destroyed Buildings or Structures Nonconforming Due to Use and/or Standards. Any building or structure nonconforming due to use and/or standards which is damaged or partially destroyed may be restored to the condition in which it was immediately prior to the occurrence of such damage or destruction, provided:

1. That the cost of reconstruction does not exceed 50 percent of the total market value of the building or structure as determined by:

a. The current assessment roll immediately prior to the time of damage or destruction, or

b. A narrative appraisal prepared by a certified member of a recognized professional appraiser's organization; provided, that such appraisal is first submitted to and approved by the director. Submission of an appraisal shall be at the option of the applicant. In verifying the accuracy of the appraisal submitted, the director may request additional supporting information from the applicant and/or conduct his own investigation including a request for technical assistance from any source which in his opinion can contribute information necessary to complete such evaluation. Further, the director may also obtain an independent narrative appraisal of the applicant's property in order to verify the accuracy of the appraisal submitted by the applicant. Where a discrepancy exists between the applicant's appraisal and the appraisal prepared pursuant to the director's request the director may at his discretion determine the market value of the applicant's property based on the evidence submitted and his decision is final; provided, that the applicant shall first have the opportunity to file additional information to substantiate the accuracy of the appraisal submitted by him. Where the director undertakes his own investigation and/or requests that an independent appraisal be

prepared as provided herein, the applicant shall pay to the county the actual cost of conducting such investigation and/or the appraisal. Value shall be determined by the use of the assessment roll in all instances where an appraisal prepared pursuant to this subsection is not approved by the director. Such costs shall not include the land or any factor other than the building or structure itself; and

2. That all reconstruction shall be started within one year from the date of damage and be pursued diligently to completion.

H. Maintenance of Buildings or Structures Nonconforming Due to Use. When maintenance or routine repairs within any 12-month period exceed 25 percent of the current market value of a building or structure nonconforming due to use, or a building or structure nonconforming due to standards which is subject to termination by operation of law as specified in subsection B of Section 22.56.1520, such building or structure shall be made to conform to the requirements for new buildings or structures as specified by this Title 22. This provision does not apply to additions permitted by this part or to Section 22.52.160. Market value shall be determined by the method specified in subsection G of this section.

I. Limitation on Additional Development. No new use, building or structure shall be developed on any lot or parcel of land containing a nonconforming use or a building or structure nonconforming due to use and/or standards unless the following conditions prevail:

1. That each existing and proposed use, building or structure, including appurtenant structures, improvements and open space, will be located on a lot or parcel of land having the required area as provided in Part 2 of Chapter 22.52; and

2. That such lot or parcel of land can be divided into smaller lots or parcels of land each of which when considered as a separate lot or parcel of land will contain not less than the required area; and

3. That each such lot or parcel of land so divided into smaller lots or parcels of land will comply with the requirements of this title as to the number and location of structures.

J. The provisions of this section shall not be construed to extend the termination date of such nonconforming uses, buildings and structures.

(Ord. 2004-0012 § 10, 2004; Ord. 83-0161 §§ 74-76, 1983; Ord. 1494 Ch. 5 Art. 9 § 509.1, 1927.)

22.52.1100 - Commercial areas. Except as otherwise provided in this Part 11, every lot or parcel of land which is used for a use permitted in Zone C-3 but not permitted in Zone R-4-()U, except an electrical substation or similar public utility in which there are no offices or other places visited by the public, shall provide an area of sufficient size so that

it contains one automobile parking space plus adequate access thereto for each 250 square feet of floor area of any building or structure so used. Except for medical offices, the preceding provisions shall not apply to business and professional offices, which shall instead provide an area of sufficient size so that it contains one automobile parking space plus adequate access thereto for each 400 square feet of floor area of any building or structure so used. (*Ord. 92-0026 § 1, 1992: Ord. 90-0155 § 2, 1990: Ord. 88-0156 § 2, 1988: Ord. 83-0161 § 46, 1983: Ord. 1494 Ch. 7 Art. 3 § 703. 18, 1927.*)

22.52.1110 - Entertainment, assembly and dining.

A. Except as otherwise provided in this Part 11, every structure used for amusement, assembly, drinking, eating or entertainment shall provide one or more automobile parking spaces:

1. For each three persons based on the occupant load as determined by the county engineer. These uses include but are not limited to:

- a. Conference rooms;
- b. Dining rooms, cafes, cafeterias, coffee shops, nightclubs, restaurants, and other similar uses;
- c. Drinking establishments, bars, cocktail lounges, nightclubs, soda fountains, tasting rooms, taverns, and other similar uses;
- d. Exhibit rooms, stages, lounges, and other similar uses;
- e. Theaters, auditoriums, lodge rooms, stadiums or other places of amusement and entertainment, not otherwise enumerated in this Part 11;
- f. Mortuaries;
- g. Dancehalls, skating rinks, and gymnasiums; and,
- h. Health clubs and centers.

2. For each 250 square feet for an eating establishment selling food for off- site consumption and having no seating or other areas for on-site eating where approved by the director in accordance with Section 22.56.1762

B. A business establishment, other than that described in subsection A2 of this section, containing a use or uses enumerated in this section shall be subject to a minimum of 10 automobile parking spaces.

C. The parking requirement for that portion of a business described in subsection A of this section that is conducted outside of a building shall be calculated in accordance with the method of determining the occupant load contained in the Building Code (Title 26 of this code). (*Ord. 2001-0071 § 1, 2001: Ord. 88-0156 § 3, 1988; Ord. 83-0161 § 48, 1983: Ord. 1494 Ch. 7 Art. 3 § 703.11, 1927.*)