

**ASHTABULA CITY COUNCIL**  
**CITY OF ASHTABULA – COUNCIL CHAMBERS**  
**4717 Main Avenue, Ashtabula, OH 44004**

**PUBLIC HEARING MINUTES**  
**Monday, April 2, 2018**

The City Council met in a **PUBLIC HEARING**. The President of Council called the hearing to order at 5:30 p.m.

**Member(s) Present:** Mrs. Kym Harley (Ward 1)  
Mr. August A. Pugliese (Ward 2)  
Mr. Michael D. Speelman (Ward 4)  
Ms. Jane E. Haines (Ward 5)  
Mr. Christopher J. McClure (Vice President – 5:35 p.m.)  
Mr. John S. Roskovics (Council President)

**Member(s) Absent:** Mr. Reginald M. Holman (Ward 3)

**Officer(s) Present:** Mr. James M. Timonere (City Manager)  
Mr. Michael Franklin (City Solicitor)  
Mrs. Dana D. Pinkert (Finance Director)  
Mrs. LaVette E. Hennigan, MMC (Clerk of Council)

**Officer(s) Absent:** None

**SUNSHINE LAW:** The Clerk of Council certified conformity to the Sunshine Law.

**PURPOSE**

The President announced the purpose of this Public Hearing was to present the request of the Planning & Community Development Department to amend the City of Ashtabula’s zoning legislation to permit a special type of Planned Unit Development in the H-1 Harbor Historical District to allow Townhouse-Type Construction.

**WELCOME**

The President welcomed the Star Beacon and Gazette reporters. The City Manager said Mr. Tim Leehan (Developer) and Mr. Roman Vencill (General Contractor), of duplex townhouses they propose to construct on Bridge Street, between Franklin Avenue and Lake Avenue, were expected to be present. The City Manager said he is representing the City’s PCD Department.

**DISCUSSION**

ORDINANCE NO. 2018-30, AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE SECTION 1137.12 CONTAINING UPDATED CONDITIONAL USE REGULATIONS FOR THE ASHTABULA HARBOR HISTORICAL DISTRICT, was introduced. (attached)

The City Manager reported:

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- Although the project has been proposed and those involved are eager and anxious to begin, the request is that within the H-1 District, “we would like to add a conditional use (CU) to allow for this townhouse-type construction to be built. Right now our legislation does not allow for this; therefore, you can’t own either side of the wall; one owner has to own the entire structure. The CU being requested would allow for townhouse-type construction, and then would allow for the conditions to be placed on that type of construction.
- One of the biggest things is we don’t want these to become rentals. So, the proposed ordinance prohibits the units from being rented for more than 28 days duration.
- We don’t want these to start being thrown up and then owners just use them as long-term rental properties.
- We want owner-occupied properties.
- In all the plans for the Harbor and Main Avenue we have had drafted residents living in those districts is mentioned. Having permanent housing and residents in downtown districts that are able to take advantage of the storefronts, within the districts, help your district. So, that is one of the impetuses for doing this.
- We want to start this type PUD in the H-1 Harbor Historical District only because the Architectural & Restoration Review Board (ARRB) sign off on the design, and secondly, the Planning Commission would be able to put other conditions on the properties because any project of this type would have to come through them first.

Note: The President acknowledged the presence of the Vice President at the meeting.

Vice President: Is there anything in the legislation that is too restrictive for the operation of Bed and Breakfast (B & B) or Airbnb establishments; given there is a potential the proposed units would be used as such. O, is it the prerogative of the owner to operate such businesses from their dwelling.

Solicitor: The legislation is intended to be friendly to that type of use, but unfriendly to an investor buying and leasing long-term to a tenant(s) or doing a land contract or a rent-to-own scheme.

Vice President: So you think it is open enough to where if someone wanted to do a B & B or Airbnb they would be capable of doing so.

Solicitor: Yes; it’s just they’re limited to 28 days duration, or less. Typically you’re looking at one or two weeks, or less.

Vice President: The only disadvantage would be we would not enjoy a bed tax, at this point, because I don’t think those are under our hotel status.

Finance Director: We do already. When we initially did our bed tax ordinance, I obtained a list of people paying bed tax in the City. There was a couple Airbnbs. Letters were sent; they registered; and they pay.

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Manager: There may be a time we revisit this topic and ask that the CU be permitted in other districts.

President: Asked City Manager to explain (g.) of the legislation.

Solicitor: I drafted this at the request of the City Manager with a lot of input from PCD and some input from the proposed developer. I put (g.) in there because my concern is not about this developer, who I believe will be responsible. But, I am concerned about a future owner or future developer trying to find ways to get around some of the restrictions that are in here, such as duration of rentals, etc. There's a tendency on the part of passive investors to say, "Well, I'm in New Jersey – what are you going to do to me". Well, we're going to send you a bill. We're going to consider you a non-conforming use, which means we don't really have to agree to anything you're doing with that property. It's just intended to give us the ability to make sure that the uses that are being described to use now are the ones that continue throughout the useful life of these structures.

President: The President expressed concern that the legislation leaves room for someone to disregard the regulations and be discovered after-the-fact.

Solicitor: We would not permit it. This legislation is necessary in order for the developer to get a building permit, which permit acts as an indication that we permit/allow this use in this district. All I'm saying is if they don't meet these conditions at some point in the future, the conditional use that was granted... keep in mind the CU has to be granted before breaking ground.

President: What will happen if they are found after-the-fact.

Solicitor: They will be given a bill and other enforcement action may be taken.

President: If someone wanted to construct in an appropriate place in the H-1 District, they would still have to go through the ARRB; the ARRB could say no; then it would be brought to the City's attention.

Manager: That's another reason we wanted to limit it to the H-1 District. There are quite a few hoops they have to jump through to do it. However, we feel this use fits that District the best and there's opportunity for it. We have a developer who's interested in doing it, which may spur the same construction by others. But, at least we have control in the H-1 District.

**QUESTIONS/COMMENTS – PUBLIC:** None

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**ANNOUNCEMENT**

The President announced that, by law, no formal action may be taken at a public hearing; but that City Council is scheduled to vote to enact Ordinance No. 2018-30 at this evening's Regular Council Meeting.

**ADJOURN**

Hearing no further business to come before this Council, the President adjourned the Public Hearing at 5:43 p.m.

DATE APPROVED: April 16, 2018

ATTESTED BY: John S. Roskovics  
John S. Roskovics  
President of Council

ATTESTED BY: LaVette E. Hennigan  
LaVette E. Hennigan, MMC  
Clerk of Council

**ORDINANCE NO. 2018-30**

**AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE SECTION 1137.12  
CONTAINING UPDATED CONDITIONAL USE REGULATIONS FOR THE ASHTABULA  
HARBOR HISTORICAL DISTRICT**

**WHEREAS**, the daily operations of the City of Ashtabula and the Office of the City Manager require the enactment of this legislation; and,

**WHEREAS**, it is necessary to provide for fair and reasonable standards for land use and development within the municipal corporate limits of the City of Ashtabula in order to safeguard the public peace, health and safety; and,

**WHEREAS**, the City Manager, in consultation with various City officials, boards and committees has made recommendations concerning proposed development in the Harbor Historical District which would allow townhouse-style residential units as a conditional use within said district, and has caused the City Solicitor to draft proposed new conditional use regulations for the H-1 District, a copy of which is attached hereto; and,

**WHEREAS**, this City Council approves said regulations as being fair and reasonable in the context of preserving and maintaining the appearance, character, and economic viability of the H-1 District;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Ashtabula, Ohio:

**SECTION 1.** That the Ashtabula Harbor Historical District Conditional Use Regulations attached hereto as an Exhibit are hereby approved, and shall hereafter have the same force and effect within the H-1 District as all existing regulations under the City zoning laws and regulations. A copy of said regulations shall be added to the Codified Ordinances as Section 1137.12.

**SECTION 2.** It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

**SECTION 3.** For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
**John S. Roskovics**  
President of Council

**Vote:**

	Yea	Nay
Roskovics:	___	___
McClure:	___	___
Harley:	___	___
Pugliese:	___	___
Holman:	___	___
Speelman:	___	___
Haines:	___	___

ATTEST: \_\_\_\_\_  
**LaVette E. Hennigan**  
Clerk of Council

APPROVED: \_\_\_\_\_  
**James M. Timonere**  
City Manager

Approved as to form and correctness this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Michael Franklin, City Solicitor

(legislation reqs/drafts/finals/2018/201830 new co 1137.12 conditional use harbor historical district)

## **EXHIBIT A**

### **1137.12 CONDITIONAL USES IN H-1 DISTRICT**

a. The following uses are permitted as conditional uses in the H-1 District upon approval of both the Architectural & Restoration Review Board and City Planning Commission:

1. Townhouses

b. For purposes of this Section:

1. "townhouse" is defined as a single structure containing not less than two (2) or more than three (3) residential dwelling units which are separately deeded as real estate to the separate owners thereof.

2. "common areas" are defined as those portions of a townhouse unit that are not described or included within the description of any individual unit, but which are utilized by all unit owners and their invitees, or which are necessary for the integrity of the building's structure.

3. "limited common areas" are defined as those portions of a townhouse unit that are not described or included within the description of any individual unit, but which are exclusively utilized by the owners of a unit and their invitees.

c. In order to be approved, a proposed townhouse development or project must meet the following qualifications, as well as meeting any other conditions imposed by the Architectural & Restoration Review Board and/or Planning Commission:

1. Each unit must contain not less than two (2) bedrooms and one (1) full bathroom;

2. Each unit must have its own kitchen;

3. Each unit must have its own HVAC unit(s) and water heaters, and its own public utility connections.

4. Each unit must be at least 1000 square feet in size exclusive of porches, stoops, patios, garages and unheated storage areas.

5. Each unit must have at least two (2) separate entrances.

6. Each unit must have at least two (2) dedicated parking spaces.

d. No townhouse unit may be used for long-term rentals, which are defined for purposes of this Section to be rental agreements of more than 28 days' duration or which automatically renew at the end of a term. Land installment contracts, leases with purchase options, and other "rent to own" arrangements are deemed to be long-term rentals and are not permitted.

e. Townhouse unit owners must agree as a condition of ownership to join a homeowner's association organized as a non-profit corporation, which shall have the authority to perform routine maintenance and necessary repairs to common areas and limited common areas, including without limitation roofs, driveways, sidewalks, lawns, landscaping, exterior fences, exterior siding and common or party walls, and to collect the cost of same from the unit owners by a formula set forth in writing in the form of bylaws or a similar document. Adjacent

townhouses may be combined into a single home owner's association to meet the requirements of this Section.

f. Each deed to each unit must include and incorporate the requirements of Paragraphs (a) through (e) of this Section as covenants running with the land, enforceable by any affected person or entity, specifically including the City of Ashtabula.

g. Failure to meet any of the foregoing conditions or any other conditions imposed by the Architectural & Restoration Review Board or the Planning Commission at the time of use approval shall cause the conditional use to terminate, and the property shall thereafter be deemed to be a non-conforming use. Annual inspections shall thereupon be required, and an annual license fee of \$1000 per unit shall be charged each unit owner. If not paid, or if inspection conditions are not met, the City shall have the authority to cause the structure to be vacated and secured against occupancy until all conditions are met.

h. The purpose of limiting rental terms and discouraging land contracts, lease purchase agreements and "rent-to-own" schemes in this section is to recognize that the City has a substantial and compelling interest in encouraging owner-occupied housing due to an excessive number of rental units already located in the City and the problems associated with passive ownership by absentee investors who neglect the properties in favor of a short-term profit. The further benefit is that the City and the Historic District ensure that persons dwelling there have the opportunity to become knowledgeable with and the incentive to become concerned about the problems and needs of the area they occupy. In enacting this requirement, the City Council finds that the restrictions are reasonably related to this purpose, while leaving unimpaired a person's right to purchase other properties or obtain other types of housing that may be more suited to their investment goals and residential preferences.