

ORDINANCE NO. 2 , 2014

**AN ORDINANCE ADOPTING AMENDMENTS TO THE
MONTGOMERY ZONING CODE**

WHEREAS, an application was made by the property owner at 9201 Montgomery Road, Montgomery, Ohio to rezone property currently zoned for the O-Office Business District to permit limited retail use by either rezoning the current property to a commercial Business District, redefining the O-Office Business District to permit commercial uses, or creating a new district; and

WHEREAS, after multiple meetings between the property owner and Staff, and after review by the Planning Commission, the Planning Commission has agreed that it is appropriate to create a new Business District with limited retail to be entitled the OC-Office Commercial District to permit low intensity retail uses within such district; and

WHEREAS, in defining such new district, Staff has categorized the Schedule of Permitted Uses within such OC-Office Commercial District, defined Supplemental Regulations for such district, and updated Chapters 150 and 151 of the Land Usage Code to reflect such new district; and

WHEREAS, the Planning Commission has approved such Staff recommendations and has recommended to City Council that Council adopt these zoning amendments; and

WHEREAS, Council did hold a public hearing on such Planning Commission recommendation on December 18, 2013, and as a result of such public hearing Council does desire to amend the Zoning Code to create the new OC-Office Commercial District, adopt appropriate definitions, setbacks and other rules to meet such district requirements throughout the Code, and approve supplemental regulations for specialty and general retail uses within such district.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. Council does hereby adopt the recommendation of the Planning Commission to create an OC-Office Commercial District within the City.

SECTION 2. Chapters 150 and 151 of the Code of Ordinances are hereby amended as set forth in Schedule A attached, as if fully rewritten herein, to adopt rules and regulations for the OC-Office Commercial District including modified Definitions, an amended and updated Schedule of Permitted Uses as outlined in Code § 151.1203, and Supplemental Regulations for such district as outlined in Code § 151.1215.

SECTION 3. All sections, subsections, parts and provisions of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be unconstitutional, void or ineffective for any reason shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

SECTION 4. All Ordinances or parts of Ordinances inconsistent herewith are hereby amended and/or repealed.

SECTION 5. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: March 5, 2014

ATTEST: Connie M. Gaylor
Susan J. Hamm, Clerk of Council
By: Connie M. Gaylor, Acting Clerk of Council

Todd A. Steinbrink
Todd A. Steinbrink, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon
Terrence M. Donnellon, Law Director

the entire business activity, or substantially all of the business activity, consists of the sale of food and service to patrons seated at tables for consumption within the building.

(129)RETAIL ESTABLISHMENT. An establishment engaged in the selling of goods or merchandise to the general public for personal or household consumption, which is open to the general public during regular business hours and which has display areas that are designed and laid out to attract the general public. In determining a use to be a retail use, the Planning Commission may consider the proportion of display area vs. storage area and the proportion of the building facade devoted to display windows.

(130)RETAIL, GENERAL. General retail uses are higher volume, larger footprint retail establishments that offer a wide variety of merchandise and serve a broad customer base with extended hours and parking needs. General retail uses are higher intensity operations which have higher traffic volumes and deliveries. Larger parking areas and trash receptacles are required, as is the need for outdoor display and signage. General retail uses include department stores, furniture and appliance stores, electronic stores, fruit and vegetable markets, hardware stores, hobby stores, dry goods and other similar uses.

(131)RETAIL, SPECIALTY. Specialty retail uses are retail establishments which have limited impact on traffic and surrounding properties due to the size and nature of the business. Specialty retail uses are low intensity operations requiring limited space and a limited number of employees. These businesses do not generate a

high volume of traffic and do not need large parking fields or large amounts of lighting and signage. Inventory of merchandise is delivered infrequently by vans or small trucks and deliveries do not require a loading dock. Specialty retail uses include boutique clothing, gift shops, book stores, card stores, art galleries and other similar uses.

(132)RETIREMENT VILLAGE. A residential facility to provide for the personal, social and/or medical needs of individuals who are elderly. The facility may include one or more of the following types of residential facilities: independent living with congregate dining facilities, congregate living, or assisted living, any of which may include nursing care as an accessory use.

(133)RIGHT-OF-WAY. A strip of land taken, dedicated, or otherwise recorded as an irrevocable right-of-passage for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, water and sewer lines, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

(134)RIGHT-OF-WAY LINE. The line between a lot, tract, or parcel of land and a contiguous public street, and demarcating the public right-of-way. "Right-of-way line" also means "street line."

(135)ROOFLINE. The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections. See Figure 4.

**CHAPTER 151.01
Establishment of Districts and Map**

151.0101	Establishment of Districts.	151.0104	Annexed land
151.0102	Zoning districts map.	151.0105	Continuation of existing planned development overlays
151.0103	Interpretation of district boundaries.		

§ 151.0101 ESTABLISHMENT OF DISTRICTS.

For the purpose of this Zoning Code the City of Montgomery is hereby divided into districts enumerated below, each being of such number, shape, kind and area and of such common unity of purpose and adaptability of use that are deemed most suitable to carry out the purposes of the City.

<u>Title</u>	<u>Symbols</u>
RESIDENTIAL DISTRICTS	
Single-Family Residential	A
Single-Family Residential	B
Single and Two-Family Residential	C
Multi-Family Residential	D-2
Multi-Family Residential	D-3
BUSINESS DISTRICTS	
Office	O
Office Commercial	OC
Limited Business	L-B
General Business	G-B
Old Montgomery	OM
▪ Core Area	
▪ Outer Area	
Old Montgomery Gateway	OMG

Heritage Overlay H-O

§ 151.0102 ZONING DISTRICTS MAP.

Those districts established in Section 151.0101 are bounded and defined as shown on a map entitled "Zoning District Map of Montgomery, Ohio". Such map with all the notations, references and other pertinent material shown thereon is hereby incorporated by reference and declared to be a part of the Zoning Code, thereby having the same force and effect as if fully described in writing. The Zoning Map shall be maintained in the office of the Zoning Administrator.

§ 151.0103 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

(a) Where Boundaries Approximately Follow Streets, Alleys or Highways. Where district boundaries are indicated as approximately following the center line or street line of streets, the center line or alley line of alleys, or the center line or right-of-way lines of highways, such lines shall be construed to be such district boundaries.

(b) Where Boundaries Parallel Street Lines, Alley Lines or Highway Right-of-Way Lines. Where district boundaries are so indicated that they are approximately parallel to the center line or street line of streets, the center line or alley line of alleys,

**CHAPTER 151.12
Business District Regulations**

151.1201	Purpose.	151.1212	Landscaping and screening requirements.
151.1202	Use regulations.	151.1213	Performance standards.
151.1203	Schedule of permitted uses.	151.1214	Supplemental regulations for drive-through facilities and freestanding automated teller machines.
151.1204	Lot requirements.	151.1215	Supplemental regulations for gasoline stations and automobile service stations.
151.1205	Building setback requirements.	151.1216	Supplemental regulations for the Bethesda North Hospital property.
151.1206	Height regulations.	151.1217	Development plan review.
151.1207	Off-street parking setback requirements.		
151.1208	Regulations for permanent outdoor display and sales.		
151.1209	Temporary uses including outdoor sales and displays.		
151.1210	Outdoor dining.		
151.1211	Accessory use regulations.		

§ 151.1201 PURPOSE.

The Business Districts (O, OC, L-B, G-B, OMG and OM) and their regulations are established in order to achieve, among others, the following purposes:

- (a) To provide in appropriate and convenient locations, sufficient areas for business activities for the exchange of goods and services;
- (b) To protect residential neighborhoods adjacent to business uses by restricting the types of establishments, particularly at the common boundaries, that would create congestion, noise or other objectionable influences;
- (c) To protect and stabilize both residential and nonresidential developments from congestion by requiring off-street parking facilities;
- (d) To provide Office Districts (O) and Office Commercial Districts (OC) to create an environment that is conducive to well-located and designed offices building sites to accommodate all types of offices and limited business service activities;
- (e) To provide Limited Business Districts (L-B) to accommodate small-scale limited

retail, office uses and uses confined primarily to indoor activities with residentially sensitive scale and character.

(f) To provide General Business Districts (G-B) with parcels of sufficient size, allowing for a broader range of commercial uses and services than those specified in the L-B District, including more intensive automotive and outdoor uses.

(g) To provide an Old Montgomery District (OM) that preserves the historic fabric of the downtown area by maintaining retail and office uses along the primary street frontages, reducing the parking requirements and allowing for buildings to be located closer to the street. To further achieve these objectives, the District has been divided into the “core area” and “outer area”. In the core area, development standards are established to maintain the traditional character and arrangement of lots along the Montgomery Road corridor; in the outer area, slightly more generous standards have been established for adjacent lots surrounding the corridor where existing lot arrangements are more flexible.

(h) To provide an Old Montgomery Gateway District (OMG) to accommodate

retail, office and mixed use developments that strengthen the current historic district and create a cohesive development pattern and density in the OMG and OM Districts.

Map as provided in Chapter 150.22 or upon a finding that a use is substantially similar as provided in § 150.1611.

§ 151.1202 USE REGULATIONS.

(a) Uses Permitted by Right. A use listed in Schedule 151.1203 shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other City Ordinances and this Zoning Code have been met;

(b) Conditional Uses. A use listed in Schedule 151.1203 shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning Commission and/or Council make the determination that the requirements of Chapter 151.20 have been met according to the procedures set forth in Chapter 150.16;

(c) Accessory Uses. A use listed in Schedule 151.1203 shall be permitted as an accessory use in a district when denoted by the letter "A". Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use. Accessory uses are further regulated in subsequent sections of this Ordinance.

(d) Use Not Listed in Schedule. Although a use may be indicated as a permitted principal, conditional or accessory use in a particular district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Zoning Code applicable to the specific use and parcel in question. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Zoning

§151.1203 SCHEDULE OF PERMITTED USES.

	Office District "O"	Office Commercial District "OC"	Limited Business District "L-B"	General Business District "G-B"	Old Montgomery Gateway District "OMG"	Old Montgomery District "OM"
A. Residential						
1. Single-family detached dwellings					C	C ^(a)
2. Two-family dwellings					C ^(e)	C ^(a)
3. Multi-family dwellings	C	C			C ^(e)	C ^(a)
4. Retirement villages	C	C				
5. Bed and Breakfasts					C ^(e)	C
6. Residential uses as conversions from retail and office uses						C
7. Residential units on upper floor of an existing commercial/office building					C ^(e)	P
8. Mixed Use Developments		P	C	C	P	C
B. Community Facilities						
1. Places of worship	C	C	C	C	C	C
2. Daycare within churches, schools	P	P	P	P	P	P
3. Day care center (child and adult)	P	P	P	P	P	P
4. Public utility substations	C	C	C	C		
5. Libraries, museums	P	P	P	P	P	P
6. Public safety facilities	P	P	P	P	P	P
7. Public service facilities				C		
8. Schools, public & private	C	C	C	C	C	C
C. Medical Facilities						
1. Hospitals	C ^(d)	C ^(d)		C		
2. Nursing Homes	C	C		C		

	Office District "O"	Office Commercial District "OC"	Limited Business District "L-B"	General Business District "G-B"	Old Montgomery Gateway District "OMG"	Old Montgomery District "OM"
D. Office and Professional Services						
1. Administrative, executive and professional offices including the management of commercial businesses, and religious institutions	P	P	P	P	P	P
2. Banks and other financial institutions	P	P	P	P	P	P
3. Public Offices	P	P	P	P	P	P
4. Medical offices of physicians, dentists, health and allied services	P	P	P	P	P	P
E. Retail						
1. Bakery, confectionery (retail/storefront operation only)			P	P	P	P
2. Greenhouses				P		
3. Freestanding automated teller machines		P	A	A	A	
4. Drive-through facility in association with a permitted use	P	P	P	P	C	P
5. Retail, Specialty including jewelry store, clothing boutique, vitamin store and other similar uses		P ^(f)	P	P	P	P
6. Retail, General including furniture store, grocery, drug store and other similar uses		A ^(g)	P	P	P	P
F. Eating Establishments						
1. Restaurants			P	P	P	P
a. Table Service			P	P	P	P
b. Counter Service			P	P	P	P
1. Taverns, bars, cocktail lounges				P	P	P
2. Outdoor dining			P	P	P	P

	Office District "O"	Office Commercial District "OC"	Limited Business District "L-B"	General Business District "G-B"	Old Montgomery Gateway District "OMG"	Old Montgomery District "OM"
G. Services						
1. Animal hospital or clinic; grooming facility (excluding open kennels or open runs)			P	P		C
2. Barber and beauty shops		P	P	P	P	P
3. Commercial/Trade schools (excluding outdoor activities)				P		C
4. Dry cleaning/laundry pickup station			P	P	P	P
5. Funeral home, mortuaries	P	P		P		
6. Motels, hotels				P		P ^(a)
7. Studios for instruction		P	P	P	P	P ^(b) C ^(c)
8. Shoe repair, tailoring		P	P	P	P	P
9. Construction and Mechanical Services				P		
H. Automotive/Transportation						
1. Parking as principal use (lot or garage)				P	P	C
2. Automobile, truck, trailer sales and rental				C		
3. Car wash				C		
4. Gasoline station				C		
5. Vehicle, repair facility				C		
I. Entertainment/Recreation						
1. Indoor recreation such as bowling lanes, tennis, handball courts				P		C
2. Theaters				P	C	C
3. Public and private parks	P	P	P	P	P	P
4. Clubs, lodges or other assembly halls	P	P		P		C ^(a)
5. Outdoor recreation including miniature golf courses, swimming pools and other similar uses				C		

	Office District "O"	Office Commercial District "OC"	Limited Business District "L-B"	General Business District "G-B"	Old Montgomery Gateway District "OMG"	Old Montgomery District "OM"
J. Trade Businesses/Services						
Repair and service shop for such items as bicycles; typewriters; keys and locks; electrical, radio and television appliances in completely enclosed buildings			P	P	P	P
K. Other						
1. Outdoor displays				P	C	C
2. Wireless Telecommunications Facilities	See Chapter 151.36					
L. Accessory						
1. Restaurants and pharmacies in connection with a principal use when conducted and entered only from within the principal building	A	A	A	A	A	
2. Off-street parking and loading areas	A	A	A	A	A	A
3. Fences, walls, landscape features	A	A	A	A	A	A
4. Trash receptacles	A	A	A	A	A	A
5. Signs	A	A	A	A	A	A
6. Outdoor recreation, including basketball courts, swimming pools and other similar uses in association with an approved multi-family development	A	A			A ^(e)	A ^(a)
<p>Notes to §151.1203:</p> <ul style="list-style-type: none"> (a) Permitted in the "outer area" only. See City Zoning Map for boundaries of outer area. (b) Uses above the first floor. (c) Uses on the first floor. (d) Except as permitted by right per §151.1215 (e) Only as part of a Mixed Use Development (f) Permitted subject to supplemental regulations of Section 151.1215(a) (g) Permitted as accessory use per supplemental regulations of Section 151.1215(b) <p>P = Use Permitted by Right C = Conditional Use A = Accessory Use</p>						

§151.1204 LOT REQUIREMENTS.

(a) The minimum lot requirements for uses in the O, OC, L-B, G-B, OMG and OM Districts are specified in Schedule 151.1204(a).

**Schedule 151.1204(a)
LOT REQUIREMENTS**

	Office District "O"	Office Commercial District "OC"	Limited Business "L-B"	General Business "G-B"	Old Montgomery Gateway District "OMG"	Old Montgomery District "OM" (a)	
						Core Area	Outer Area
(1) Minimum Lot Size	15,000 sq.ft.	15,000 sq. ft.	15,000 sq.ft.	15,000 sq. ft.	10,000 sq. ft.	none	none
(2) Minimum Lot Width	75 ft.	75 ft.	75 ft.	75 ft.	40 ft.	none	none
(3) Mandatory Building Width	--	--	--	--	60% of lot width ^(c)	70% of lot width ^(b)	none
(4) Maximum Impervious Surface Coverage	--	--	60% of lot area	--	--	--	--
<p><u>Notes to Schedule 151.1204(a):</u></p> <p>(a) See City Zoning Map for boundaries of core area vs. outer area.</p> <p>(b) See also § 151.1204 (b).</p> <p>(c) See also §151.1509(a)(1).</p>							

(b) Lot Frontage Requirements in the Core Area of the Old Montgomery District. Each lot shall have a minimum of 70 percent of the linear length of the lot frontage devoted to a building, or a building and wall in combination, as specified below:

- (1) The length of lot frontage utilized in the calculation shall not include the width of access drives.
- (2) When the length of the building frontage equals less than 70 percent of the linear length of the lot frontage, a wall shall be required as specified below so that the length of the building and wall, in combination, equal a minimum of 70

percent of the linear length of such lot frontage.

- A. Walls shall be constructed of solid masonry and shall have a height not less than 3 feet, not including ornamentation or other features.
- B. Walls shall be located no farther from the public right-of-way than the building setback line established in Subsection 151.1205(b).

§ 151.1205 BUILDING SETBACK REQUIREMENTS.

(a) Every building shall be located on a lot in compliance with the setback requirements set forth in Schedule 151.1205(a).

**Schedule 151.1205(a)
BUILDING SETBACK REQUIREMENTS**

	Office District "O"	Office Commercial District "OC"	Limited Retail "L-B"	General Business "G-B"	Old Montgomery Gateway District "OMG" ^(c)	Old Montgomery District "OM" ^(a)	
						Core Area	Outer Area
(1) Front Yard	30 ft.	30 ft.	30 ft.	30 ft.	10 ft.	0	10 ft.
(2) Side Yard	10 ft. ^(b)	10 ft. ^(b)	10 ft. ^(b)	10 ft. ^(b)	5 ft.	0	5 ft.
(3) Rear Yard	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	0	15 ft.
(4) Side/Rear Yards When Adjoining a Residential District or Use	45 ft.	45 ft.	45 ft.	45 ft.	15 ft. side ^(b) 45 ft. rear for commercial structures 10 ft. rear ^(b) for residential structures	15 ft.	15 ft.
<p><u>Notes to Schedule 151.1205:</u></p> <p>(a) See City Zoning Map for boundaries of core area vs. outer area.</p> <p>(b) Or ½ of the building height, whichever is greater.</p> <p>(c) See also §151.1508</p>							

(b) Front Yards of Built-Up Blocks. In an O, OC, L-B, or G-B District, whenever a vacant lot is proposed for development and there are existing buildings (other than those of an accessory use) on adjacent lots that do not meet the minimum setback requirements, the minimum front setback for the vacant lot shall be the mean distance of setback of all buildings within 200 feet of the proposed structure along the block front. However, in no instance shall a building be placed nearer to the front lot line than 15 feet.

§ 151.1206 HEIGHT REGULATIONS.

(a) The height of buildings and structures in the O, OC, G-B and L-B Districts shall not exceed three stories, up to a maximum of 45 feet, except as permitted in §150.0204(b).

(a) The height of buildings in the Heritage Overlay District shall comply with the requirements set forth in §151.1405.

(b) The height of the buildings in the OMG District shall comply with the requirements set forth in §151.1513.

§ 151.1207 OFF-STREET PARKING SETBACK REQUIREMENTS.

Off-street parking areas shall conform to the regulations of Chapter 151.32 and to the parking requirements specified in Schedule 151.1207. Off-street parking shall be located in compliance with the minimum setbacks, measured from the street right-of-way or property line, as specified within Schedule 151.1207 unless otherwise noted.

(a) The area within the parking setback shall be landscaped in accordance with Chapter 151.34.

(b) Off-street parking spaces shall be provided in compliance with Chapter 151.32.

**Schedule 151.1207
OFF-STREET PARKING SETBACK REQUIREMENTS**

	Office District "O"	Office Commercial District "OC"	Limited Retail "L-B"	General Business "G-B"	Old Montgomery		
					"OM" (a)		"OMG"
					Core Area	Outer Area	Gateway
(1) Setback from street right-of-way	50 ft. ^{(b)(e)}	50 ft. ^{(b)(e)}	20 ft. ^(b)	20 ft. ^(b)	(c)	12 ft.	20 ft. ^(b)
(2) Setback from side or rear lot line							
A. When the lot line adjoins a nonresidential district	10 ft.	10 ft.	10 ft.	5 ft.	Side - (d) Rear - 0	3 ft.	5 ft.
B. When the lot line adjoins a residential district or use.	20 ft.	20 ft.	20 ft.	20 ft.	Side - (d) Rear - 5 ft.	10 ft.	20 ft.
<p><u>Notes to Schedule 151.1207:</u></p> <p>(a) See City Zoning Map for boundaries of core area vs. outer area.</p> <p>(b) When the front yard abuts or faces a residential district, no parking may be located in the front yard.</p> <p>(c) Not permitted in the front yard. On corner lots, parking may be permitted in the front yard abutting any street other than Montgomery Road, with a minimum 5ft. peripheral landscape strip, provided that no parking is located between the building line and the front lot line along Montgomery Road.</p> <p>(d) Not permitted in side yard.</p> <p>(e) The setback for parking when the principal building is set closer than 50' from the right of way shall be equal to the setback of the building.</p>							

§ 151.1208 REGULATIONS FOR PERMANENT OUTDOOR DISPLAY AND SALES.

Outdoor display of merchandise for sale shall comply with the following:

(a) Areas devoted to outdoor display shall comply with all parking lot setbacks and yard regulations for the district in which they are located, as set forth in this chapter.

(b) The outdoor display area shall not be located in areas intended for traffic circulation or pedestrian access as identified on the site plan.

(c) The area of the lot devoted to outdoor display shall not exceed 20 percent of the ground floor area of the principal building. This restriction does not apply to auto dealerships or plant nurseries.

(d) One information sign per product(s) identifying the product(s) on permanent outdoor display shall be permitted; however, such signs shall not exceed one (1) sq. ft in size. The sign message is limited to identifying what the product is and the sale price. The sign must be located on or next to the product it identifies and oriented for pedestrians on

(g) No separate advertising is permitted for the outdoor dining area, including any advertisement for the business or any supplier to the business on any umbrellas, awning or other structure attending to the outdoor dining facilities.

(h) The property owner shall be responsible to keep the outdoor dining area free and clear of all garbage, trash and other debris and shall provide an appropriate trash receptacle within the outdoor dining area for the deposit of refuse and litter. Such trash receptacle shall be emptied on a regular basis and shall be moved indoors at the end of each business day.

(i) Any outdoor dining located upon a public sidewalk or within the public right-of-way requires a separate annual permit from the City Manager which must be accompanied by sufficient surety or insurance to protect and indemnify the City from any third party claims.

§ 151.1211 ACCESSORY USE REGULATIONS.

Accessory uses permitted in any O, OC, L-B, G-B, OMG or OM District shall conform to the regulations of this Section.

(a) Accessory Buildings. Accessory buildings shall conform to all lot and yard regulations and development plan review and approval requirements for principal buildings of the zoning district in which the parcel or lot is located.

(b) Fences and Walls. Fences and walls may be erected in compliance with the requirements set forth in Chapter 151.34.

(c) Signs. Signs shall conform to the regulations specified in Chapter 151.30.

(d) Temporary Storage Containers. Temporary Storage Containers are considered to be an accessory use within all Business Districts and shall be regulated consistent with the same

regulatory standards set forth within Section 151.1009 of the Code.

§ 151.1212 LANDSCAPING AND SCREENING REQUIREMENTS.

Visual screening and landscape buffers shall be provided for all lots in nonresidential districts in accordance with the provisions set forth in Chapter 151.34.

§ 151.1213 PERFORMANCE STANDARDS.

All uses shall comply with the following performance standards.

(a) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container or dumpster shall be located in a side or rear yard and in ‘O’ and ‘OC’ districts shall comply with the minimum parking setbacks established in Schedule 151.1207. Additionally, such building, container, or dumpster must also maintain a minimum 20’ setback from any property line which abuts a residential use. All enclosures shall be screened in accordance with provisions set forth in Chapter 151.34.

(b) Lighting. All lighting shall be so arranged as to direct light away from adjacent parcels and streets and shall not be of excessive brightness or cause a glare hazardous to motorists or reasonably objectionable to adjacent property owners. See also 151.3212(c). Exterior lighting should be limited to what is needed to illuminate parking, pedestrian, and other activity areas for safety and security. Additional lighting mounted on a building may be used to illuminate points of ingress and egress as required by building codes. Planning Commission, through the site plan review process, may also permit limited exterior lighting on buildings to

highlight architectural features. Lighting under canopies and awnings is permitted when it covers a sidewalk or entrance. However, the awning or canopy must be opaque and the intent of the lighting is not to illuminate the entire canopy or awning. These standards are in addition to the requirements of §151.3212(c) for parking areas.

(c) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.

§151.1214 SUPPLEMENTAL REGULATIONS FOR DRIVE-THROUGH FACILITIES AND FREESTANDING AUTOMATED TELLER MACHINES.

(a) Drive-through facilities in association with a permitted use shall comply with the following:

- (1) Such facilities shall be located in an area least disruptive to pedestrian or vehicular traffic.
- (2) Any proposed loud speaker system must be pre-approved as part of the development plan.
- (3) All access drives shall be located as far as practicable from an existing intersection in order to minimize congestion and constricted turning movements.
- (4) The Planning Commission may impose restrictions on the hours of operation in order to minimize the impact on surrounding properties.

(b) Freestanding automated teller machines in association with a permitted use shall comply with the following:

- (1) No separate signage is permitted for an ATM other than directional signs located on the lot of the principal use. Additionally, there may be

advertising on the ATM to identify the ATM brand, but limited to no more than two (2) square feet on each of two (2) fronts.

- (2) Such ATM facilities shall be located in an area least disruptive to pedestrian or vehicular traffic.
- (3) If an ATM is accessible as a drive-up machine, then there shall be an identifiable and dedicated traffic lane located on the lot of the principal use with sufficient room to allow one (1) motor vehicle to access each machine and such additional space within the identified and dedicated traffic lane to allow two (2) waiting motor vehicles for each machine to stand on the lot without interfering with other vehicular traffic.
- (4) Any separate lighting for the ATM must comply with § 151.1213 (b) and shall be the minimum necessary to provide adequate security for the use of the ATM.
- (5) No external loud speaker system is permitted with such ATM.

§151.1215 SUPPLEMENTAL REGULATIONS FOR SPECIALTY AND GENERAL RETAIL USES IN AN OFFICE COMMERCIAL DISTRICT

The following supplemental conditions are required for retail uses when located in an ‘OC’ Office Commercial District:

(a) Specialty Retail uses shall comply with the following:

- (1) The maximum gross square footage shall not exceed 5,000 square feet.
- (2) The sign regulations for the Office District will apply to all uses regardless of whether they are retail or service uses.

- (3) Temporary and Permanent Outdoor displays are prohibited.
- (4) Parking will be required per the standards in Schedule 151.3204.
- (b) General Retail uses shall comply with the following:
 - (1) The maximum gross square footage shall not exceed 5,000 sq. ft. or 20% of the total square footage of the principle and accessory use, whichever is less.
 - (2) There will be no additional exterior signage.
 - (3) Access to the accessory use will be through one shared entrance with the principle use.
 - (4) The hours of operation of the accessory use will coincide with the hours of the permitted use.

§ 151.1216 SUPPLEMENTAL REGULATIONS FOR THE BETHESDA NORTH HOSPITAL PROPERTY.

(a) History. The Bethesda North Hospital Property (hereinafter Bethesda site, Appendix “A” attached) was first zoned in 1967 as a planned development under ordinance 5-67, which acknowledged the permitted site uses related to hospital operations with additional site restrictions concerning height of buildings, setback and green belt requirements, access restrictions, and fence restrictions. In 1998 Council adopted the planned development overlay process for all planned developments in the community. This ordinance established a procedure to convert planned development districts, such as the hospital district created in 1967 and amended in 1995, to the planned development overlay process. The conversion required Council, when the property owner applied for any substantive modification to the planned development, to rezone the property to one

of the conventional zoning districts (at that time Districts A through E) while imposing upon the particular property the planned development overlay restrictions. In 1995 the hospital development restrictions were modified in part by Ordinance 21-1995, and the hospital entered into an agreement with neighboring residential properties on the south property line providing certain protective covenants and restrictions between the hospital and these property owners.

(b) Purpose. With this history in mind, the purpose of this Section as codified is to establish the underlying conventional zoning district for the Bethesda site (the “O” Office District) while recognizing the historically permitted uses from the 1967 ordinance, as modified by the 1995 ordinance, as overlay development restrictions for the Bethesda site and to incorporate future development of the site into the Development Plan Review Process as set forth in Chapter 150.14. These specific development standards have been established in the past to ensure maintenance and growth of the existing hospital and healthcare facilities on the subject property in a manner compatible with surrounding residential neighborhoods. It is intended that these standards be incorporated in this Section and supplemented by development standards applicable to other properties within the “O” District. In the event that the standards set forth below specific to the “Bethesda site conflict with the development standards outlined in this Chapter, the regulations of this Section shall supercede.

(a) Principally Permitted Uses and Accessory Permitted Uses for the Bethesda Site.

- (1) Principally Permitted Uses
 - Hospital and related healthcare facilities including extended care

**§ 151.2005 SUPPLEMENTAL
REGULATIONS FOR
CONDITIONAL USES IN
RESIDENTIAL DISTRICTS.**

In any residential district, the percentage of a lot covered by a nonresidential use, including buildings and parking, shall not exceed 40% of the total area of the lot.

**§ 151.2006 SCHEDULE OF
MINIMUM LOT AND YARD
DIMENSIONS FOR CONDITIONAL
USES IN OFFICE, OFFICE
COMMERCIAL, RETAIL BUSINESS,
OLD MONTGOMERY GATEWAY
AND OLD MONTGOMERY
DISTRICTS.**

Schedule 151.2006 sets forth regulations governing minimum lot area, minimum lot width and minimum yard requirements for principal and accessory buildings and parking areas for conditional uses in a business district. Supplemental requirements pertaining to such uses are set forth in Section 151.2007, and the specific subsections are referenced in Schedule 151.2006 below.

Schedule 151.2006

Area, Width and Yard Regulations for Conditional Uses in Office, Office Commercial, Retail Business, Old Montgomery Gateway and Old Montgomery Districts

Conditional Use:	Minimum Lot Regulations		Minimum Building Setbacks		Minimum Parking Setbacks		Also See Section:
	Area	Width	Front	Side-Rear ^(b)	Front	Side-Rear ^(b)	
1. Animal hospital or clinic; grooming facility (excluding open kennels or open runs)	(a)	(a)	(a)	(a)	(a)	(a)	--
2. Automobile, truck, trailer and farm implement sales and rental	3 ac	200 ft	(a)	(a)	(a)	(a)	151.2007(a)
3. Bed and Breakfast	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(b)
4. Car wash	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(c)
5. Clubs, lodges or other assembly halls	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(e)
6. Commercial/Trade schools (excluding outdoor activities)	(a)	(a)	(a)	(a)	(a)	(a)	--
7. Gasoline Stations	.5ac	100ft	50ft	50ft	(a)	(a)	151.2007(h)
8. Hospitals	3 ac	300 ft	(a)	(a)	(a)	(a)	151.2007(j)
9. Indoor recreation such as bowling lanes, theaters, tennis, handball courts	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(k)
10. Medical offices of physicians, dentists, health and allied services	(a)	(a)	(a)	(a)	(a)	(a)	--
11. Mixed Use Developments	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(l)
12. Multi-family dwellings	(a)	(a)	(a)	(a)	(a)	(a)	--
13. Outdoor displays	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(m)

Notes to Schedule 151.2006:

- (a) Shall comply with district regulations.
- (b) Regulations apply to all side and rear setbacks unless a greater setback is specified in the district regulations for lots adjacent to residential districts.
- (c) Shall comply with the parking setback requirements for the principal building on the lot.

ft = feet sf = square feet ac = acres

-- = Not applicable

**CHAPTER 151.30
Sign Regulations**

151.3001	Purposes.	151.3012	Regulations for permanent ground mounted signs.
151.3002	Classification of signs.	151.3013	Bonus sign area permitted.
151.3003	Signs exempt from regulation.	151.3014	Regulations for permanent window signs in the Old Montgomery District.
151.3004	Prohibited signs.	151.3015	Supplemental regulations for temporary signs.
151.3005	Computation of sign size.	151.3016	Criteria for the design and construction of permanent signs.
151.3006	Maximum sign area permitted.	151.3017	Criteria for the design and construction of temporary signs.
151.3007	Permanent identification signs in residential districts.	151.3018	Maintenance.
151.3008	Business identification signs.	151.3019	Administration procedures.
151.3009	Additional permanent signs permitted.	151.3020	Regulations for nonconforming signs.
151.3010	Schedule of maximum sign area and height regulations in residential districts.	151.3021	Inspection upon completion.
151.3011	Schedule of maximum sign area in office, office commercial, retail business, Old Montgomery Gateway and Old Montgomery Districts.	151.3022	Sign contractor's license.
		151.3023	Indemnification and insurance.

§ 151.3001 PURPOSES.

The purpose of this Chapter is to promote and protect the public health, welfare, and safety by regulating existing and proposed advertising signs. More specifically, the purpose of these regulations is to:

- (a) Ensure that signs are consistent with the community's development objectives, thereby maintaining the community's character.
- (b) Promote and maintain attractive, high value residential, office, retail, and heritage districts, and preserve the scenic and natural beauty of designated areas.
- (c) Provide reasonable, yet appropriate, conditions for identifying institutions, businesses, and office and retail establishments.

- (d) Ensure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment.
- (e) Provide review procedures that enable the City to comprehensively evaluate the appropriateness of a sign to the site, building and surroundings.
- (f) Guarantee equal treatment under the law through accurate record keeping and consistent enforcement.
- (g) Provide businesses with equitable sign standards, based on the values of fair competition and aesthetic standards acceptable to the community.
- (h) Place appropriate limits upon temporary signs to prevent waste and debris.
- (i) Provide reasonable yet appropriate restrictions regarding the number, size and

between the exterior faces of the exterior sidewalls.

- (2) In the case of an irregular wall surface, a straight line extended along such wall surface shall be used to measure the length.
- (3) For lots fronting on two or more streets, or where the building has its main entrance on a wall other than the wall that faces the street, the property owner shall determine which wall shall be the primary building frontage and which wall shall be the secondary building frontage. Only one outside wall of any business shall be considered its primary frontage.
- (4) For multi-tenant buildings, the portion of a building that is owned or leased by a single tenant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.
- (e) Determining Window Area: The window area of a building shall be the total glass area of windows on the first floor of the wall of the building facing a public street. A window panel shall be the area of glass separated from another window panel by an opaque panel four or more inches wide.

§ 151.3006 MAXIMUM SIGN AREA PERMITTED.

Signs as permitted in the respective zoning districts shall conform to the maximum area limitations set forth in Schedules 151.3010 and 151.3011, and the supplemental regulations set forth in the following sections, as applicable. Signs for which no maximum area limitations are specified are subject to the review and approval of the Planning Commission, subject to the procedures and requirements of Section 151.3019 unless such signing is exempt according to Section 151.3003.

§ 151.3007 PERMANENT IDENTIFICATION SIGNS IN RESIDENTIAL DISTRICTS.

(a) Residential Development Identification Signs. All residential development identification signs shall comply with the maximum area requirements set forth in Schedule 151.3010 as well as the requirements for ground mounted signs set forth in § 151.3012.

(b) Institution Identification Signs. All institutional uses, community facilities and recreational uses, as conditionally permitted in residential districts, shall comply with the maximum area requirements set forth in Schedule 151.3010 as well as the requirements for ground mounted signs set forth in § 151.3012.

§ 151.3008 PERMANENT BUSINESS IDENTIFICATION SIGNS.

(a) Single Occupancy Buildings in the Retail Business, Old Montgomery Gateway and Old Montgomery Districts. The maximum area permitted for business identification signs for a business in a single occupancy building or development shall be 1.5 square feet per lineal foot of building frontage, up to 60 square feet. On lots with more than one frontage on a public right of way, the frontage with the greatest length shall be used for this calculation. Bonus sign area as specified in Section 151.3013 is permitted for secondary frontages. The allowable area shall include the sum of the areas of all permanent signs attached to buildings, including wall signs, awning/canopy signs and projecting signs, as well as ground mounted signs and permanent window signs, where permitted. Sandwich board signs permitted under Section 151.3015(c)(2) are excluded from the maximum area calculation. The maximum area shall also include the area of incidental signs unless such incidental signs are determined to be exempt pursuant to § 151.3009 below. In determining the maximum area permitted, ground mounted signs and permanent window signs shall not exceed the maximum area set forth in Schedule 151.3011. The maximum number of signs per single occupancy building or development over which the maximum area for signage may be divided shall be limited

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to three (3) signs, including any signage allowed in Section 151.3013. The maximum height for the wall for a business identification sign is 20' as measured from the building grade line to the top of the sign.

(b) Multiple Occupancy Buildings in the Retail Business, Old Montgomery Gateway and Old Montgomery Districts. Business identification signs for multiple occupancy building shall comply with the following:

(1) Signs Attached to Buildings. The maximum area permitted for signs attached to the building for each tenant unit or space shall be 1.5 square feet per lineal foot of building frontage, up to 60 square feet. This maximum area shall be the sum of the areas of all signs attached to the building for a single tenant space, including wall signs, awning/canopy signs, projecting signs, as well as ground mounted signs and permanent window signs, where permitted. The maximum area shall also include the area of incidental signs unless such incidental signs are determined to be exempt pursuant to § 151.3009 below. In determining the maximum area permitted for signs attached to buildings, permanent window signs shall not exceed the maximum area set forth in Schedule 151.3011. The maximum number of signs per tenant space over which the maximum area for signage may be divided shall be limited to three (3) signs. The maximum height on the wall for a business identification sign is 20' as measured from the building grade line to the top of the sign.

(2) Ground Mounted or Yard Arm Signs. Multiple occupancy buildings shall be permitted one (1) ground mounted or yard arm sign per project or development in compliance with the area requirements outlined in Schedule 151.3011.

(c) Office and Office Commercial Districts. Business identification

signs for a project or development in the Office and Office Commercial Districts shall be limited to one of the following types of signs:

(1) A wall sign, the area of which shall be equivalent to 1.5 square feet per lineal foot of building frontage, up to 60 square feet; or

(2) A ground mounted or yard arm sign, the area of which shall not exceed the maximum sign area set forth in Schedule 151.3011.

(3) Additional signage as permitted in § 151.3013.

(d) Supplemental Regulations. In addition to the maximum area requirements set forth in this Section, permitted business identification signs shall comply with the supplemental regulations set forth in § 151.3012, § 151.3013 and § 151.3014, as applicable.

§ 151.3009 ADDITIONAL PERMANENT SIGNS PERMITTED.

(a) Incidental Signs. Incidental signs shall not be included in the sum of the area of identification signs, provided that they are clearly intended for incidental purposes, as determined by the Zoning Administrator and in compliance with the following:

(1) The sign is not in a location and does not possess design characteristics that constitute or serve the purposes of an identification sign; and

(2) The sign is not larger than necessary to serve the intended incidental purpose, except when located in a window, in which case the incidental sign shall not exceed the maximum sign area set forth in Schedules 151.3010 and 151.3011 for incidental signs.

(b) Under-Canopy Signs. Under-canopy signs for retail developments shall comply with the maximum area set forth in Schedule 151.3011; the area of which

§ 151.3011 SCHEDULE OF MAXIMUM SIGN AREA IN OFFICE, OFFICE COMMERCIAL, RETAIL BUSINESS, OLD MONTGOMERY GATEWAY AND OLD MONTGOMERY DISTRICTS.

Sign Type	Office Districts	Office Commercial Districts	Retail Business Districts	Old Montgomery Gateway District	Old Montgomery District
(a) Name Plate	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.
(b) Building Marker	6 sq. ft.	6 sq. ft.	6 sq. ft.	6 sq. ft.	6 sq. ft.
(c) Residential Development Identification Signs	25 sq. ft. ^{(a)(b)}	25 sq. ft. ^{(a)(b)}	NP	25 sq. ft. ^{(a)(b)}	25 sq. ft. ^{(a)(b)}
(d) Institution Identification	(c)	(c)	(c)	(c)	(c)
(e) Business Identification Signs ^(d)					
(1) Attached to Buildings	(d)	(d)	(d)	(d)	(d)
(2) Ground Mounted or Yard Arm Signs	30 or 36 sq. ft. ^{(b)(e)}	30 or 36 sq. ft. ^{(b)(e)}			
(3) Permanent Window Signs	10 sq. ft. or 20% of the window area, whichever is less	10 sq. ft. or 20% of the window area, whichever is less	10 sq. ft. or 20% of the window area, whichever is less	10 sq. ft. or 20% of the window area, whichever is less	20% of window area ^(f)
(d) Plaques	NP	NP	3 sq. ft. ^(g)	3 sq. ft. ^(g)	3 sq. ft. ^(g)
(e) Under-Canopy Signs	NP	NP	2 sq. ft. ^{(b)(h)}	2 sq. ft. ^{(b)(h)}	2 sq. ft. ^{(b)(h)}
(f) Directional Signs: Perimeter Interior	4 sq. ft. 8 sq. ft.				
(g) Incidental Signs	2 sq. ft. ⁽ⁱ⁾	2 sq. ft. ⁽ⁱ⁾	2 sq. ft. ⁽ⁱ⁾	1 sq. ft. ⁽ⁱ⁾	1 sq. ft. ⁽ⁱ⁾
(h) Menu Boards	NP	NP	20 sq. ft.	20 sq. ft.	20 sq. ft.
(i) Temporary Signs ⁽ⁱ⁾					
(1) Project Construction/ Land Development Signs	50 sq. ft. ^(j)	50 sq. ft. ^(j)			
(2) Special Event Signs	25 or 50 sq. ft. ^{(j)(k)}	25 or 50 sq. ft. ^{(j)(k)}			
(3) Political Signs	4 sq. ft. ^(l)	4 sq. ft. ^(l)			
(4) Real Estate Signs, on lots less than 1 acre in size	16 sq. ft. ⁽ⁱ⁾	16 sq. ft. ⁽ⁱ⁾			
(5) Real Estate Signs, on lots 1 acre or more in size	50 sq. ft. ⁽ⁱ⁾	50 sq. ft. ⁽ⁱ⁾			

being removed by the City without reimbursement if such sign interferes with the City's use of the right of way or causes a threat to the public safety.

- (4) Minimum Setback from Side Lot Lines. Such signs shall be located no closer than 25 feet to a side lot line.
- (5) Illumination. Such signs may be externally illuminated only, in compliance with subsections A-G under Section 151.3016(m)(1).
- (6) Address. Ground signs shall include the street address.

(b) Ground Mounted Institution Identification Signs in Residential Districts. Ground mounted institution identification signs in residential districts shall comply with the setback requirements for residential development identification signs, as outlined in subsection (a) above.

(c) Ground Mounted Business Identification Signs. In addition to the requirements set forth in § 151.3008, a ground mounted sign or yard arm sign in the O, OC, L-B, G-B, OMG and OM Districts shall comply with the following:

- (1) Maximum Number of Signs. Not more than one (1) ground mounted sign shall be permitted per project or development, except for facilities on corner lots or double frontage lots pursuant to § 151.3012(c)(6).
- (2) Minimum Sign Setback from Street. In the OM and OMG Districts, ground mounted or yard arm signs shall be located no closer to a street curb or edge of pavement than 6 feet or 50% of the building setback, whichever is less, but shall not be placed within the public right-of-way. In the O, OC, L-B, and G-B districts, ground mounted or yard arm signs shall be located no closer

than 6 feet to any street right-of-way line.

- (3) Minimum Sign Setback from Side Lot Lines. Ground mounted signs and yard arm signs in the O, OC, L-B, G-B and OMG Districts shall be located no closer than 10 feet from any side property line, except that when a side lot coincides with a residential zoning district boundary line, the minimum setback shall be 25 feet.
- (4) Maximum Height Of Ground Mounted Signs. All permitted ground mounted signs or yard arm signs shall not exceed a height of five (5) feet, except for directional signs which shall not exceed a height of four (4) feet.
- (5) Multi-Tenant Facilities. When a ground mounted sign or yard arm sign is erected on a site that has more than one tenant, it is the property owner's responsibility to determine the sign area devoted to identification of the development, building, anchor tenant, all tenants, or some combination thereof.
- (6) Additional Area for Corner Lots or Double Frontage Lots. One additional ground mounted or yard arm sign shall be permitted for a corner lot or double frontage lot in the O, OC, L-B, and G-B Districts and the additional area shall not be included in the sum of the maximum sign area set forth in §151.3008 for business identification signs provided that:
 - A. The total frontage of both streets is not less than 300 feet and there are at least two (2) curb cuts providing access to the lot;
 - B. The area of each ground mounted or yard arm sign complies with Schedule 151.3011, and the

total area of both signs shall not exceed 150 percent of the maximum area permitted for a single sign;

C. The second ground mounted or yard arm sign is clearly located to provide identification along the secondary street; and

D. The two signs may be aggregated into a single sign at the corner provided that the area of any sign face shall not exceed the area specified in 151.3012(c)(6)B.

- (7) Landscaping. Ground mounted or yard arm signs in the O, L-B, G-B, and OMG Districts shall be erected in a landscaped setting and shall not be permitted on sidewalks, drives or in parking lots.
- (8) Address. Ground signs shall include the street address.
- (9) Ground Mounted Institution Identification Signs in Business Districts. Ground mounted institution identification signs located in business districts shall comply with the applicable supplemental regulations for ground mounted business identification signs, as outlined in subsections (c)(1) through (8) above.

§ 151.3013 BONUS SIGN AREA PERMITTED.

Business identification signs in the ‘O’, ‘OC’, ‘LB’, ‘GB’, ‘OMG’, and ‘OM’ Districts attached to buildings may exceed the allowable areas set forth in § 151.3008 in compliance with the following:

(a) One additional sign shall be permitted when a building has a secondary customer entrance facing a side or rear parking area. Such additional sign shall be permitted only on the secondary frontage.

(b) The additional sign area shall not exceed .75 square feet per lineal foot of building frontage based on the length of the secondary building frontage, up to 30 square feet.

(c) All or a portion of the sign area permitted on the primary building frontage may be redistributed along the secondary building frontage, provided that the total sign area on the secondary frontage shall not exceed 1.5 square feet per lineal foot of the secondary building frontage or 60 square feet, whichever is less.

§ 151.3014 REGULATIONS FOR COMMERCIAL WINDOW SIGNS.

Permanent and temporary commercial window signs shall be permitted in the Old Montgomery, Old Montgomery Gateway, Office and Retail Business Districts in compliance with the following:

(a) The percentage of allowable coverage for permanent and temporary window signs, shall comply with the maximum sign area set forth in §151.3011. The maximum area of all window signage shall not exceed ten (10) square feet or 20% of the window area, whichever is less.

(b) All temporary window signs which are two (2) square feet and below do not require a permit from the Community Development Department; however, the cumulative total of such signs per business shall comply with the maximum percent coverage as outlined in §151.3011. If more than one sign is used to convey a single message and the total sign area of the signs exceeds two (2) square feet, a permit is required and all of the signs will be treated as one sign.

(c) All temporary window signs which are between two (2) and ten (10) square feet in size require a permit from the Community Development Department and shall be counted toward the total allowable days for a special event sign, as outlined in §151.3015(e). Such signs shall also comply

(e) The size, style and location of the sign shall be appropriate to the activity of the site.

(f) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture.

(g) There shall not be more than 4 colors, including black and white, used on any sign. Fluorescent colors are prohibited. For signs in the Old Montgomery District, the colors shall be in conformity with the approved colors for that District.

(h) Signs identifying multiple tenants of a building should be designed to allow changes in tenant occupancy. Unused tenant identification areas shall be filled with matching decorative panels so as to minimize the appearance of vacancy.

(i) Signs, if seen in series, shall have a continuity of design with the style of sign generally consistent throughout the building or block.

(j) Incidental signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.

(k) A sign should be constructed with a minimum of different types of material so as to provide a consistent overall appearance.

(l) All signs proposed within the Heritage Overlay District boundaries shall be constructed in compliance with the design guidelines for this district, as outlined in Chapter 151.14.

(m) Illumination. The illumination of signs shall be permitted in compliance with the following:

(1) Signs may be illuminated internally or by reflected light in the Office,

Office Commercial and Retail Business Districts provided that:

A. Light sources shall be shielded from all adjacent buildings and streets.

B. Lights shall not be of such brightness so as to cause glare that is hazardous to pedestrians or motorists, or cause reasonable objection from adjacent residential districts.

C. An exposed incandescent lamp shall not be used in excess of 25 watts unless a screen is attached or unless the sign is placed over 10 feet above the ground.

D. Internally illuminated signs shall be constructed so as to allow the illumination of only letters, numbers, or other identifying symbols on the display surface. No light shall pass through the background. The background material of the sign's exterior surface and the enclosing cabinet shall be of a single, opaque, non-reflective material with a texture approved by the Zoning Administrator.

E. Sources of light and power sources shall be weatherproofed, the fixtures shall be UL approved for outdoor use and shall present no heat or electrical hazards under all weather conditions.

F. All plastic faced signs shall have a matte-finish, non-reflective surface.

G. Signs shall not be lighted to obstruct traffic control or any other public informational signs. Signs visible from sight lines along streets shall not contain symbols or words, or red and green lights that resemble highway traffic signs or devices.

unless determined to be inappropriate by the City Engineer.

(b) Drainage. Parking areas shall be graded to provide for drainage so that injury will not be caused to adjacent properties or water will not drain across a public sidewalk. All new parking areas over 2,000 square feet in area, excluding access drives, shall be designed so that all stormwater runoff from the parking area shall be directed through a minimum of one stormwater best management practice (BMP) as approved by the City Engineer prior to being released from the site. The City Engineer will work with the engineer for the applicant to identify which progressive environmental design should be used, being sensitive to existing site conditions and reasonable technical specifications. Any addition to an existing parking lot which would make the total square footage of the parking area 2,000 square feet or more, excluding access drives, shall install a minimum of one stormwater BMP to capture the additional volume of runoff generated by the additional parking area. The Community Development Director and the City Engineer may approve the reconfiguration of any parking area which reduces the amount of impervious surface or in which at least one stormwater BMP is installed; otherwise, the reconfiguration of the parking area shall be reviewed by the Planning Commission. Drainage will be consistent with all other applicable standards of the City of Montgomery.

(c) Lighting. Parking areas shall be illuminated whenever necessary to protect the public safety. Light sources utilized for such illumination shall comply with the following regulations:

- (1) Height: The height of all light poles for parking and other public areas for permitted and conditional uses in all residential districts and the OM Core District, shall not exceed 20 feet. The height of all light poles in

the O, OC, L-B, G-B, OMG and OM Outer Business Districts shall not exceed 25 feet. Institutional uses in residential, office and office commercial districts may be permitted a higher pole for accessory recreational uses as part of the approval of a conditional use permit when it can be shown that there will not be a significant impact on surrounding properties. Lighting inside or directly adjacent to a stadium which is intended to light the playing field will be the only pole lighting which may be exempted by the Planning Commission from the height and full cut off requirement. The height of a light pole shall be measured from the ground, including any bases upon which the light pole sits, up to the highest extension of the pole or structure, regardless of the position of the light source.

- (2) Fixture: All light poles shall use luminaires with a 90 degree full cutoff with a flat lens. Light poles under 15 feet in height using incandescent lighting or which produce light directly by the combustion of fossil fuels, such as kerosene or gas lamps may be exempted from the full cutoff requirement. When a business or public institution uses a high intensity (HID) type of bulb on an exterior wall mounted fixture, the bulb must be housed in a full cut off fixture mounted at a 90 degree plane from the ground and may not be directly visible from five feet beyond the property line.
- (3) Type of Light: Lamp types for parking areas may be high pressure sodium, metal halide or light emitting diode (L.E.D). When appropriate, incandescent and lighting produced directly by the combustion of fossil fuels may be

- approved. Low pressure sodium and mercury vapor lamps are prohibited.
- (4) Light Trespass: The height and location of poles shall be designed such that the maximum light spillage onto the ground of any adjoining private property shall not exceed .01 footcandles at any point 5 feet from the property line.
 - (5) Illumination levels: The maximum lighting levels for parking, and outdoor activities for institutional uses in residential districts shall be established by the Planning

Commission as part of the conditional use permit. The maximum lighting levels for parking areas, outdoor seating, and inventory display areas in the Office, Retail, Old Montgomery Gateway and Old Montgomery districts are set forth in Schedule 151.3212 (c). Lighting levels are determined by the average maintained number of foot-candles at the ground level.

- (6) Light poles used for public roadway illumination are exempt from the requirements of this § 151.3212(c).

SCHEDULE 151.3213(c)(i)

Maximum Average Illumination Levels for Exterior Parking, Pedestrian and Storage Areas In Office, Office Commercial, Business, Old Montgomery Gateway and Old Montgomery Districts

Use	O, OC, LB, GB, OM(Outer), OMG	OM (Core)
Administrative/Professional Office	2fc	1.5fc
Medical Facilities (clinics with 24 hour operation)	3fc	2fc
Retail Stores, Shopping Centers	2fc	1.5fc
Restaurants, Bars, Nightclubs	2fc	1.5fc
Professional Services (grooming, dry cleaning, repair services)	2fc	1.5fc
Indoor Recreational/Entertainment	2fc	1fc

SCHEDULE 151.3213(c)(ii)

Maximum Average Illumination Levels for Outdoor Display/Storage in the Office, Office Commercial, Business, Old Montgomery Gateway and Old Montgomery District

	O, OC, GB	LB, OMG & OM
Auto Dealerships (New, Used, Sales, Rental):		
Front Row and Feature Display	Day/Evening 25fc Overnight* 10fc	Day/Evening 10 fc Overnight* 5fc
Balance of Display/Storage Area	Day/Evening 12fc Overnight* 3fc	Day/Evening 5fc Overnight* 3fc
Other Permanent/Temporary Outside Storage/Display	Day/Evening 8fc Overnight* 3fc	Day/Evening 5fc Overnight* 3fc
Restaurants (Bars) with Outdoor Seating	Day/Evening 3fc Overnight* 1fc	Day/Evening 3fc Overnight* 1fc
Gas Stations/Convenience Stores with Pumps:		
Under Canopy within 15 of Pump	Day/Evening 20 fc Overnight* 5fc	
Balance of Vehicle Access/Parking/Display	Day/Evening 5fc Overnight 2 fc	
Drive-Up Windows As Part of Principal Building with 10' of Window	Day/Evening 10 fc Overnight 3 fc	Day/Evening 10 fc Overnight* 3 fc
Automated Teller Machines, Restaurant Menu Boards within 8' of ATM or Board	Day/Evening 10 fc Overnight* 3 fc	Day/Evening 10 fc Overnight* 3 fc

*Overnight is defined as starting one hour after close of business or 11:00 p.m., whichever is earlier. Drive-up windows for twenty-four (24) hour restaurants, twenty-four (24) hour gas stations and convenience stores, and twenty-four (24) hour ATM's are exempt from the overnight restriction and may maintain day and evening lighting at all hours.

(d) Curbs and Wheel/Bumper Guards. Appropriate bumper guards and markings shall be provided in order to define parking spaces or limits of paved areas and to prevent vehicles from projecting into required yards, walkways or alleys.

the location of each parking space, the location of spaces for persons with disabilities, and the location and direction or movement along the aisles and access drives providing access thereto by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surface.

(e) Marking. Any off-street parking area for 5 or more parking spaces shall indicate

- (2) For the purpose of this Section, the area of a parking lot shall be the total vehicular surface area including circulation aisles.

(b) Screening Along Streets and Perimeter of Parking Areas. Whenever parking areas consisting of 5 spaces or more are located such that the parked cars will be visible from a public or private street, screening, in addition to the interior landscaping required in subsection (a) above, shall be provided and maintained between the parking area and the street right-of-way.

- (1) All shrubs, berms, walls, and fences, shall have a minimum height of 3 feet, and shall cover 100% of the perimeter of the parking area. When the screening or a portion thereof is intended to be provided with landscaping, the minimum height at installation must be 24".
- (2) Such landscaping and/or screening shall be located parallel to and within five (5) feet of the edge of the parking lot.

§ 151.3409 SCREENING OF ACCESSORY USES.

For single-family attached and multi-family developments, Office, Office Commercial, Business, Old Montgomery Gateway, Old Montgomery Districts, and for non-residential conditional uses in residential districts, screening of accessory uses shall be provided according to the following:

- (a) Trash receptacles. Trash receptacles shall be enclosed on all four sides by a wall or fence with a gate or landscaping that creates a continuous visual screen and matches or compliments the principal building. A chain link fence shall not be permitted. The screening shall have a minimum height of 6 feet or the height of the receptacle, whichever is greater. The

gate shall be enclosed at all times, except during collection.

- (b) Loading and Service Areas. Each loading area shall be screened along any perimeter that faces a street right-of-way or adjoining property according to the screening requirements of subsection 151.3406(c).

§ 151.3410 REQUIREMENTS FOR FENCES AND WALLS IN OFFICE, OFFICE COMMERCIAL AND COMMERCIAL DISTRICTS.

- (a) Fences and walls, when not used for screening and buffering as required by § 151.3407, may be used in commercial districts for the following purposes:

- (1) For decorative purposes in the front yard, not to exceed a height of 4 feet; or
- (2) For security and/or containment of equipment or vehicles in the side or rear yard. Fences shall be of chain link, picket, split rail, sapling, louver, board on board, or other design, and, if painted, shall be one color. The maximum height of the fence is six feet. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced.

- (b) All fences and walls shall be approved with appropriate landscaping as part of a final development plan.

§ 151.3411 APPROVAL PROCESS FOR REQUIRED LANDSCAPING, FENCES AND WALLS.

- (a) Proposed landscaping, fences or walls required to fulfill the standards and criteria of this chapter shall be reviewed

be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.

(g) Wireless telecommunication antenna: A physical device used to receive or transmit electromagnetic, wireless telecommunication signals authorized by the Federal Communications Commission between cellular phones, pagers, commercial mobile services, wireless services and ground-wired telecommunication systems including, but not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. Antennas used by amateur radio operators are excluded from this definition.

(h) Wireless telecommunication facility: A facility consisting of the equipment and structures involved in receiving telecommunication or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines or relays signals to another land based or mobile receiver

(i) Wireless telecommunication support structure: Any building or structure accessory to but necessary for the proper functioning of the wireless telecommunication antennas.

(j) Wireless telecommunication tower: A structure intended to support equipment used to transmit and/or receive telecommunication signals including monopoles, guyed and lattice construction steel structures.

§ 151.3603 PERMITTED LOCATIONS.

A wireless telecommunication tower or facility is permitted in the following areas, when in compliance with these regulations and approved by the Planning

Commission according to the procedures set forth in Chapter 150.14, Development Plan Review:

(a) In the O, OC, L-B, and G-B zoning districts, a new wireless antenna may collocate on an existing tower, in compliance with the requirements set forth in § 151.3605(a).

(b) In the O, OC, L-B, and G-B zoning districts, a new wireless antenna may collocate on an existing structure that has been constructed for other purposes, such as but not limited to water towers, church steeples, chimneys and cooling towers, in compliance with the requirements set forth in § 151.3605(a).

(c) A new wireless telecommunication tower may be located in an O, OC, L-B, or G-B zoning district, in compliance with the requirements set forth in § 151.3605.

(d) A new wireless antenna may collocate on an existing tower in a residential zoning district, in compliance with the requirements set forth in § 151.3605(a).

§ 151.3604 LOCATIONS REQUIRING CONDITIONAL USE APPROVAL.

A new wireless telecommunication tower and facility may be located in a residential zoning district as a conditional use only on sites where a conditional use already exists. Such facilities require approval of the Planning Commission according to the procedures outlined in Chapter 150.16 for conditional uses as well as the requirements set forth in Chapter 151.20. In order for the Planning Commission to consider the location of a new wireless telecommunication tower and facility as a conditional use in a residential zoning district, the applicant must demonstrate that there is no technically suitable space available in the O, OC, L-B, and G-B zoning districts and the reasons

why such space has been determined not to be technically suitable.

**§ 151.3605 STANDARDS
APPLICABLE TO ALL WIRELESS
TELECOMMUNICATION
FACILITIES.**

All wireless telecommunication towers and facilities shall comply with the following standards and conditions:

(a) Before a new wireless telecommunication tower and facility may be considered for approval in the O, OC, L-B, G-B, or residential zoning districts, the applicant must demonstrate that:

(1) A technically suitable location is not available on an existing tower or on an existing structure, as permitted in § 151.3603. The applicant shall list the location of every tower, building or structure that could support the proposed antenna(s) so as to allow it to serve its intended function, and the reasons why such tower, building or structure has been determined not to be technically suitable; or

(2) If other towers, buildings or structures are technically suitable, the applicant must show that it has requested to collocate on all existing towers, buildings or structures and the collocation requests were denied by the owners of the towers, buildings or structures.

(b) The owner/operator of a new telecommunication tower shall agree to allow collocation when technologically feasible and/or until said tower has reached full antenna capacity, but in no event shall the owner/operator agree to allow fewer than three (3) additional antenna platforms for three (3) additional providers unrelated to the owner/operator. Applicants are required to bear an equitable share of capital operating and other expenses in connection with such shared use.

Agreement to this provision must be included in the applicant's lease with the landowner, if different from the owner/operator of the tower. Written documentation shall be presented to the Zoning Administrator evidencing that the owner of the property on which the tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this section.

(c) All towers shall be of monopole design. Lattice-type towers are prohibited.

(d) The applicant shall demonstrate that the antenna and/or tower must be placed as proposed in order to satisfy a necessary function in the company's grid system.

(e) The applicant shall demonstrate that the proposed tower and related facilities are safe and shall be located, to the extent possible, to minimize any adverse impacts on surrounding properties including, but not limited to tower failure, falling ice or other debris, electromagnetic fields or radio frequency interference.

(f) The applicant shall agree to accommodate the telecommunications of the local police, fire, ambulance and other city departments at no charge.

(g) The minimum distance between the base of the tower and the property lines shall be as follows:

(1) The distance required from any residential lot shall be equal to 110 percent of the height of the tower.

(2) The distance required from any non-residential lot shall be equal to 40 percent of the height of the tower, the minimum setback required in the underlying zoning district or 50 feet, whichever is greater.

(h) The applicant of a proposed tower shall demonstrate that the tower is the minimum height necessary to accommodate the antennae and is no higher

**Chapter 151.20
Conditional Use Regulations**

<p>151.2001 Purpose.</p> <p>151.2002 General criteria for all conditional uses.</p> <p>151.2003 Specific standards for conditional uses.</p> <p>151.2004 Schedule of minimum lot and yard dimensions for conditional uses in residential districts.</p> <p>151.2005 Supplemental regulations for conditional uses in residential districts.</p>	<p>151.2006 Schedule of minimum lot and yard dimensions for conditional uses in office, office commercial, retail business, Old Montgomery Gateway and Old Montgomery Districts.</p> <p>151.2007 Supplemental regulations for certain uses.</p> <p>151.2008 Accessory building regulations for conditional uses in residential districts</p>
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§ 151.2001 PURPOSE.

Conditionally permitted uses are those uses which have a particular impact on the surrounding area that cannot be predetermined and controlled by general regulations. In order to insure that these uses in their proposed locations will be compatible with surrounding development, their establishment shall not be a matter of right but may be permitted after review and approval as hereinafter provided.

This consideration of conditional uses is particularly important. In recent years, the characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Zoning Code should provide for more detailed evaluation of each use listed as a conditional use in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use,

requirements for public facilities, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of Chapter 150.16.

§ 151.2002 GENERAL CRITERIA FOR ALL CONDITIONAL USES.

A conditional use, and uses accessory to such conditional use, shall be permitted in a district only when specified as a conditional use in such district and only if such use conforms to the following general criteria, which are in addition to specific conditions, standards and regulations set forth in Sections 151.2003 through 151.2008. The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following criteria and shall find adequate evidence that the use as proposed:

- (a) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;

These regulations shall not apply to seasonal holiday display lighting.

(n) Signs located within the Residential Districts and Old Montgomery District shall be externally illuminated only.

(o) Construction Standards.

(1) The construction, erection, safety and maintenance of signs shall comply with the Ohio Basic Building Code and the Ohio Revised Code.

(2) Signs shall be located so as to pose no threat to pedestrian or vehicular traffic.

(3) All signs shall be rigidly secured and no part of any sign shall be revolving or oscillating to attract attention.

(4) All ground mounted signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

(5) All under-canopy, bracketed projecting or awning signs shall have a minimum clearance of 15 feet over any vehicular use area. For pedestrian use areas, the minimum clearance should be 7 feet, 6 inches in the Retail Business Districts and 7 feet in the Office, Office Commercial, Old Montgomery Gateway and Old Montgomery Districts.

(6) All bracketed projecting signs shall be attached to a building wall at an angle of 90 degrees and project not more than 4 feet. All wall signs shall not project more than 6” from the building wall to which it is attached in the Old Montgomery Gateway and Old Montgomery District and 8” from the building wall to which it is attached in the Office, Office Commercial and Retail Business Districts.

(7) No sign shall be erected so as to obstruct any window, door, fire escape, balcony, platform, stairway, ladder, vent or other means of ingress of any building.

(8) Signs shall be fabricated on and of material that are of good quality, good durability and are complimentary to the building of which they become a part.

(9) Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than 12 inches horizontally or vertically from any conductor or public utility guy wire.

(10) Signs shall be structurally designed to withstand wind pressure of 30 pounds per square foot in any direction.

§ 151.3018 MAINTENANCE.

All signs shall be maintained in accordance with the following:

(a) The property owner shall maintain the sign in a condition fit for the intended use and has a continuing obligation to comply with all building code requirements.

(b) Whenever any sign, either conforming or nonconforming to these regulations, is required to be removed for the purpose of repair or repainting, the same may be done without a permit or any payment of fees provided that all of the following conditions are met:

(1) There is no alteration or remodeling to the structure or the mounting of the sign itself.

unless determined to be inappropriate by the City Engineer.

(b) Drainage. Parking areas shall be graded to provide for drainage so that injury will not be caused to adjacent properties or water will not drain across a public sidewalk. All new parking areas over 2,000 square feet in area, excluding access drives, shall be designed so that all stormwater runoff from the parking area shall be directed through a minimum of one stormwater best management practice (BMP) as approved by the City Engineer prior to being released from the site. The City Engineer will work with the engineer for the applicant to identify which progressive environmental design should be used, being sensitive to existing site conditions and reasonable technical specifications. Any addition to an existing parking lot which would make the total square footage of the parking area 2,000 square feet or more, excluding access drives, shall install a minimum of one stormwater BMP to capture the additional volume of runoff generated by the additional parking area. The Community Development Director and the City Engineer may approve the reconfiguration of any parking area which reduces the amount of impervious surface or in which at least one stormwater BMP is installed; otherwise, the reconfiguration of the parking area shall be reviewed by the Planning Commission. Drainage will be consistent with all other applicable standards of the City of Montgomery.

(c) Lighting. Parking areas shall be illuminated whenever necessary to protect the public safety. Light sources utilized for such illumination shall comply with the following regulations:

- (1) Height: The height of all light poles for parking and other public areas for permitted and conditional uses in all residential districts and the OM Core District, shall not exceed 20 feet. The height of all light poles in

the O, OC, L-B, G-B, OMG and OM Outer Business Districts shall not exceed 25 feet. Institutional uses in residential, office and office commercial districts may be permitted a higher pole for accessory recreational uses as part of the approval of a conditional use permit when it can be shown that there will not be a significant impact on surrounding properties. Lighting inside or directly adjacent to a stadium which is intended to light the playing field will be the only pole lighting which may be exempted by the Planning Commission from the height and full cut off requirement. The height of a light pole shall be measured from the ground, including any bases upon which the light pole sits, up to the highest extension of the pole or structure, regardless of the position of the light source.

- (2) Fixture: All light poles shall use luminaires with a 90 degree full cutoff with a flat lens. Light poles under 15 feet in height using incandescent lighting or which produce light directly by the combustion of fossil fuels, such as kerosene or gas lamps may be exempted from the full cutoff requirement. When a business or public institution uses a high intensity (HID) type of bulb on an exterior wall mounted fixture, the bulb must be housed in a full cut off fixture mounted at a 90 degree plane from the ground and may not be directly visible from five feet beyond the property line.
- (3) Type of Light: Lamp types for parking areas may be high pressure sodium, metal halide or light emitting diode (L.E.D). When appropriate, incandescent and lighting produced directly by the combustion of fossil fuels may be