

**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
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, or the center line or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at

such distance therefrom as indicated on the Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map.

(c) Where Boundaries Approximately Follow Lot Lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

(d) Vacation of Public Ways. Whenever any street, alley or other public way is vacated in a manner authorized by law, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended district.

(e) Resolving Disputes. All uncertainties and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals.

§ 151.0104 ANNEXED LAND.

All land that may hereafter be annexed to the City of Montgomery, the township zoning regulations existing at the time of annexation shall continue to govern the former township land until an amendment to the City of Montgomery Zoning Map is adopted in conformance with the procedures of this Zoning Code.

§ 151.0105 CONTINUATION OF EXISTING PLANNED DEVELOPMENT OVERLAYS

In addition to the Heritage District Overlay (§151.14), there are within the City five planned unit development overlay adopted under the following ordinances and/or resolutions:

- (1) Montgomery Station: Ord. # 19, 1983
Ord. # 4, 1996
- (2) Coventry Court: Ord. #6, 1986
Ord: # 5, 1996
- (3) Mayfair Apartments: Ord. # 21, 1980
Ord.# 3, 1989
- (4) Orchard Club: Office: R-28,1990
Residential R-7, 1993
- (5) Woodgate Subdivision: R-49-1992

These developments have continued to be maintained in accordance with the development standards and site plans under which they originally were approved. A proposed modification to one of these previously approved plans shall be treated as the equivalent of the submission of a Final Development Plan subject to the review and appeal procedures of Chapter 150.14.

**CHAPTER 151.10
Residential District Regulations**

151.1001	Purpose.		attached dwellings and multi-family dwellings.
151.1002	Use regulations.		
151.1003	Schedule of permitted uses.	151.1007	Site development requirements for single-family detached clusters, single-family attached dwellings or multi-family dwellings
151.1004	Lot requirements for standard single-family detached dwellings and two-family dwellings.		
151.1005	Yard requirements for standard single-family detached dwellings and two-family dwellings.	151.1008	Height regulations.
		151.1009	Accessory use regulations.
151.1006	Lot requirements for single-family detached cluster developments, single-family	151.1010	Regulations for home occupations.
		151.1011	Family day care home, type "B".

§ 151.1001 PURPOSE.

Single-Family and Multi-Family Residential Districts (A, B, C, D-2, and D-3) and their regulations are established in order to achieve, among others, the following purposes (Note: The D-1 District was deleted during the update of the Montgomery Zoning Code in 2000):

- (a) To regulate the bulk and location of dwellings and accessory buildings or structures to obtain proper privacy and useable open spaces on each lot appropriate for the various districts;
- (b) To provide for proper location of institutions and other community facilities so as to increase the general convenience, safety and amenities within the community;
- (c) To protect the desirable characteristics and promote the stability of existing residential development;
- (d) To regulate the density and distribution of population in accordance with the Comprehensive Community Plan to avoid congestion and provide adequate public services.

§ 151.1002 USE REGULATIONS.

(a) Uses Permitted By Right. A use listed in Schedule 151.1003 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 151.1003 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. An accessory use that is clearly incidental and subordinate to a use listed in Schedule 151.1003 shall be permitted provided that the requirements of all other City Ordinances and this Zoning Code have been met. Accessory uses are further regulated in § 151.1009 of this chapter and as listed below.

- (1) Dish-type satellite signal receiving stations.
- (2) Family day care home, “type B” in compliance with § 151.1011
- (3) Fences, walls, landscape features in compliance with Chapter 151.34.
- (4) Home occupations in compliance with § 151.1010.
- (5) Private garages and off-street parking areas in compliance with Chapter 151.32.
- (6) Signs in compliance with Chapter 151.30.
 - (7) Swimming pools, tennis courts, sports courts, basketball courts and other recreational and play equipment uses.
- (8) Utility/storage sheds.
 - (d) Use Not Listed in Schedule. 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 Map as provided in Chapter 150.22 or upon a finding that a use is substantially similar as provided in § 150.1611.

§ 151.1003 SCHEDULE OF PERMITTED USES.

Land Use Category	“A” Single-Family District	“B” Single-Family District	“C” Single and Two-Family District	“D-2” Multi-Family District	“D-3” Multi-Family District
A. Residential					
1. Single-family detached dwellings	P	P	P	P	P
2. Single-family detached cluster dwellings				P	P
3. Single-family attached dwellings			P	P	P
4. Two-family dwellings			P	P	P
5. Multi-family dwellings				P	P
6. Family home for handicapped persons (4 to 8 persons)	C	C	C	C	C
7. Group home for handicapped persons (at least 9 persons)				C	C
8. Keeping of rabbits or chicken/hens for personal use (6 or fewer chickens/hens)	P	P	P		
B. Community Facilities					
1. Places of worship	C	C	C	C	C
2. Cemeteries	C	C	C	C	C
3. Day care within churches, schools	C	C	C	C	C
4. Day care center (child and adult)				C	C
5. Electric substations	C	C	C	C	C
6. Libraries, museums	C	C	C	C	C
7. Retirement villages				C	C
8. Schools, public & private	C	C	C	C	C
P = Permitted Use C = Conditional Use					

Land Use Category	“A” Single-Family District	“B” Single-Family District	“C” Single and Two-Family District	“D-2” Multi-Family District	“D-3” Multi-Family District
9. Public offices	C	C	C	C	C
10. Public safety facilities	C	C	C	C	C
C. Entertainment - Recreation					
1. Public and private parks	C	C	C	C	C
2. Golf courses	C	C	C	C	C
3. Clubs, lodges or other assembly halls				C	C
D. Other					
Wireless Telecommunications Facilities	See Chapter 151.36				
P = Permitted Use C = Conditional Use					

§ 151.1004 LOT REQUIREMENTS FOR STANDARD SINGLE-FAMILY DETACHED DWELLINGS AND TWO-FAMILY DWELLINGS.

Lots created for single-family detached dwellings in any residential district and two-family dwellings where permitted shall comply with the area and dimension requirements specified in Schedule 151.1004 for the district in which the lot is located.

(a) Minimum Lot Area. The area of a lot that may be used for the purposes of a dwelling unit shall not be less than the area set forth in Schedule 151.1004 except as otherwise permitted in subsection (d) below.

(b) Minimum Lot Width. The width of a lot, measured at the building line, shall not be less than the width set forth in Schedule 151.1004.

(c) Minimum Lot Frontage. The minimum lot frontage shall be the same as the minimum lot width except for lots on cul-de-sacs as set forth in Schedule 151.1004 and as otherwise permitted in subsection (d) below.

(d) Exceptions for Panhandle Lots.

(1) The minimum lot frontage required for panhandle lots shall be 20 feet measured at the public street right-of-way which provides access to the lot.

(2) Panhandle lots can only be created, however, when the lot area is 150% of the permitted minimum lot area of the district or 100% of the area of the front lot of which the panhandle lot is located immediately behind, whichever is larger in size. If the lot is located behind more than one lot, the new lot must be 150% of the

permitted minimum area or 100% of the area of all the lot area that it is located behind, whichever is greater, provided, however, that no lot need exceed 200% of the permitted minimum area.

- (3) In calculating the area of the panhandle lot for purposes of determining whether it meets the minimum area requirements, if the panhandle or portion of the lot providing access to the street right-of-way is less than 35 feet in width at any point of the panhandle, the area of the panhandle shall not be included in the lot area calculations.
- (4) The principal dwelling of a panhandle lot shall not be constructed closer to the side and rear lot lines than 150% of the respective minimum side and rear yard setback requirements established in Schedule 151.1005, and shall be a minimum of 50 feet from the front lot line. For the

purposes of this §151.1004(d), the front lot line shall be that portion of the property line nearest and perpendicular to the access strip or panhandle of the lot. The rear lot line is the lot line opposite and parallel to the front lot line.

- (5) Adequate screening may be required for the panhandle lot if the Zoning Administrator determines that the proposed dwelling, parking area, driveway or accessory structures infringes on the privacy and enjoyment of adjoining residential properties. In such case, appropriate landscaping shall be provided as determined by the Zoning Administrator.
- (e) One Dwelling per Lot. There shall not be more than one dwelling constructed on a lot, except as otherwise regulated in § 151.1006 for single-family clusters, attached single-family or multi-family developments.

Schedule 151.1004

LOT REQUIREMENTS FOR STANDARD SINGLE-FAMILY DETACHED DWELLINGS AND TWO-FAMILY DWELLINGS

	“A”	“B”	“C”	“D-2”	“D-3”
(1) Minimum lot area (square feet)					
A. Single-family	20,000	15,000	12,000	7,400	6,250
B. Two-family	--	--	12,000	10,000	8,500
(2) Minimum lot width at building line (feet)					
A. Single-family	80	70	65	60	60
B. Two-family	--	--	65	65	65
(3) Minimum lot frontage for lots on cul-de-sacs (feet)					
A. Single-family	50	45	45	40	40
B. Two-family	--	--	45	40	40

**§ 151.1005 YARD
REQUIREMENTS FOR STANDARD
SINGLE-FAMILY DETACHED
DWELLINGS AND TWO-FAMILY
DWELLINGS.**

Single-family detached dwellings and two-family dwellings shall be located on a lot in a manner that maintains the minimum front, side and rear yards specified in Schedule 151.1005 for the district in which the lot is located.

(a) Front Yard. Each lot shall maintain a front yard in compliance with Schedule 151. 1005, except as otherwise permitted in subsection (b) below.

(b) Front Yards on Built-up Blocks. If 40 percent or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that were lawfully constructed before the effective date of this Zoning Code, but which could not now be constructed under the terms of this Code because they do not meet the required front yard setback, then new buildings may project into the front setback established for that district up to the average front yard setback of the nearest four lots located on the same side of the street of the proposed lot.

(c) Side Yards. Except for corner lots, each lot shall have and maintain two side yards in compliance with Schedule 151.1005.

(d) Rear Yards. Each lot shall maintain a rear yard as specified in Schedule 151.1005.

**Schedule 151.1005
YARD REQUIREMENTS FOR STANDARD SINGLE-FAMILY DETACHED
DWELLINGS AND TWO-FAMILY DWELLINGS (in feet)**

	“A”	“B”	“C”	“D-2”	“D-3”
(1) Front Yard					
A. Single-family	50 ^(a)				
B. Two-family	--	--	50 ^(a)	50 ^(a)	50 ^(a)
(2) Side Yard					
A. Single-family	15	12	10	8	8
B. Two-family	--	--	10	10	10
(3) Rear Yard					
A. Single-family	35	30	30	25	25
B. Two-family	--	--	30	30	30
Notes to Schedule 151.1005:					
(a) Except as otherwise provided in § 151.1005 (b).					

§ 151.1006 LOT REQUIREMENTS FOR SINGLE-FAMILY DETACHED CLUSTER DEVELOPMENTS, SINGLE-FAMILY ATTACHED DWELLINGS AND MULTI-FAMILY DWELLINGS.

Land area divided and developed for single-family detached clusters, single-family attached dwellings or multi-family dwellings in the D-2, D-3 and OMG Districts shall comply with the following regulations:

(a) Minimum Development Area. The gross area of a tract of land shall not be less than that set forth in Schedule 151.1006. The entire tract of land to be developed shall be considered one zoning lot.

(b) Maximum Density.

- (1) The density of a residential development shall not exceed the number of dwelling units per acre set forth in Schedule 151.1006 for the district in which the development is located.
- (2) The total number of dwelling units permitted shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(c) Maximum Coverage. The maximum coverage of the lot, including all areas covered by buildings, vehicular drives and parking areas shall not exceed the percentage of total area of the development project set forth in Schedule 151.1006.

shall not exceed the number of units set forth in Schedule 151.1006.

(d) Maximum Number of Attached Single-Family Units. A building comprised of attached single-family units

(e) Minimum Lot Frontage. Each zoning lot shall abut upon a public street for not less than the distance set forth in Schedule 151.1006. On corner and through lots, each frontage must meet this requirement.

Schedule 151.1006

LOT REQUIREMENTS FOR SINGLE-FAMILY DETACHED CLUSTER DEVELOPMENTS, SINGLE-FAMILY ATTACHED DWELLINGS AND MULTI-FAMILY DWELLINGS

	“D-2”	“D-3”	“OM-Outer”	“OMG”
Minimum Development Area (acres)	2	2	.75	.75
Maximum Density	5 dwelling units per acre	6 dwelling units per acre	10 dwelling units per acre	12 dwelling units per acre
Maximum Impervious Surface Coverage	60%	60%	80%	80%
Maximum Number of Attached Single-Family Units per Building ^(a)	4	6	----	----
Minimum Lot Frontage	100	100	90	----
Notes to Schedule 151.1006:				
^(a) The limitation on the number of units per building does not apply to apartments				

(f) Supplemental Requirements for Single-Family Detached Cluster Developments.

the time the general development plan is reviewed. Any such development requirements adopted with such plan shall become binding land use requirements for the proposed development.

- (1) Privacy for individual principal buildings shall be maintained through the use of landscaping and screening.
- (2) Street lighting and street signs shall be adequate for safety and security.
- (3) Additional development requirements formulated to achieve the objectives of this section may be established at

§ 151.1007 SITE DEVELOPMENT REQUIREMENTS FOR SINGLE-FAMILY DETACHED CLUSTERS, SINGLE-FAMILY ATTACHED DWELLINGS OR MULTI-FAMILY DWELLINGS.

The following regulations are established to regulate the design and development of single-family detached clusters, single-family attached dwellings or multi-family dwellings in the D-2 or D-3 district.

(a) Setback from Existing Rights-of-Way. The setback of a principal or accessory building and off-street parking areas from an existing public right-of-way shall not be less than the distances set forth in Schedule 151.1007 and Schedule 151.1009(d).

(b) Setback from Project Boundary. The setback of a principal or accessory building and off-street parking areas from any project boundary that is not an existing public right-of-way shall not be less than the distances set forth in Schedule 151.1007.

(c) Building Spacing. The minimum distance between buildings on the same site, shall not be less than the distance set forth in Schedule 151.1007. The following definitions shall apply to terms used in this section:

(1) Main Wall. The wall of a building which contains the primary windows of any living, family or dining room.

(2) End Wall. The walls, other than a main wall of a building, which may be blank or contain windows not considered to be primary windows.

(d) Building Arrangement. Single-family detached clusters, single-family attached dwellings or multi-family dwellings may be arranged in a group and need not directly front onto a street.

**Schedule 151.1007
Site Development Regulations for Single-Family Detached Clusters, Single-Family Attached Dwellings or Multi-Family Dwellings**

	D-2	D-3	OM Outer
(1) Minimum principal building setback from public street right-of-way	35 feet	35 feet	10 feet
(2) Minimum parking setback from public street right-of-way	20'	20'	10'
(3) Minimum principal building setback from:			
A. Project boundary line when adjacent to residential districts	30 feet	30 feet	15 feet
B. Project boundary line when adjacent to non-residential districts	15 feet	15 feet	15 feet
(4) Distance between buildings within the same project boundary			
A. Main wall of one principal building facing a main wall of another principal building	40	40	--
B. Main wall of one principal building facing an end wall of another principal building	30	30	--
C. End wall of one principal building facing an end wall of another principal building	20	20	--

§ 151.1008 HEIGHT REGULATIONS.

All buildings and structures in the residential districts shall comply with the following:

(a) Principal buildings shall not exceed 2 1/2 stories or 35 feet, whichever is less, except for multi-family dwellings in the D-3 district, which shall not exceed 3 stories or 45 feet.

(b) For a residence being constructed on a lot where the previous house was demolished, the top of the foundation of the new residence shall not be set higher than 12" above the top of the foundation of the previous residence unless it is determined by the city engineer that the foundation needs to be raised to ensure

proper drainage.

(c) Accessory buildings and structures shall not exceed a height of 15 feet, except as otherwise permitted in § 151.1009 and §150.0204(b).

(1) If a residential building replaces a residential building in whole or in part, or if there is an expansion or addition to a residential building requiring additional foundation to support such expansion or addition, then the height of all or any portion of the new building foundation may not exceed by 12 inches the height of the highest point of the foundation of the residential building being replaced, or the height of the highest point of the foundation of the existing residential building to which an addition or expansion is attached.

(2) The additional foundation height as restricted above shall be measured based upon the elevation of the previous foundation height, which previous elevation height and new elevation height must be certified by the applicant by field measurement to the Zoning Administrator.

(3) The Zoning Administrator may vary this restriction on new foundation height if it is shown to the satisfaction of the Zoning Administrator and the City Engineer that the existing typography of the residential lot poses a practical difficulty in adhering to this standard.

outer most edge of any paved, wood or other fixed surface attached to or surrounding such building or structure.

(b) Minimum Yard Requirements for Detached Accessory Buildings or Structures on Lots with Standard Detached Single-Family Dwellings and Two-Family Dwellings. A detached accessory building or structure permitted on lots with standard detached single-family dwellings and two-family dwellings in the residential districts shall be located as set forth in §151.1009(b) and as otherwise provided for in this Section.

§ 151.1009 ACCESSORY USE REGULATIONS.

Accessory uses, buildings and structures permitted in any residential district shall conform to the location, coverage and maintenance standards contained in this section. No accessory building or use shall be established on a lot unless a principal building or use has first been established and constructed on the lot in conformance with all applicable provisions of this Zoning Code.

(a) Measurement Requirements.

(1) The setback requirements for an accessory building or structure shall be measured from the property line to the outer most edge of any paved or fixed surface attached to, surrounding, or supporting such building or structure, such as a poured base or wood boundaries surrounding a play set or an aboveground pool.

(2) The coverage area of an accessory structure shall be measured from the outer most point of any paved or fixed surface upon which the building or structure rests, or the outer most projection of any support structure for the building or structure, or the

**Schedule 151.1009(b)
Minimum Yard Requirements for Detached Accessory Buildings or Structures on Lots
with Standard Detached Single-Family Dwellings and Two-Family Dwellings**

Permitted Structure, Building	Yard in which Permitted	Minimum Distance (in feet)From:		
		Front Lot Line	Side Lot Line	Rear Lot Line
(1) Detached garages, storage sheds or similar accessory buildings ^(a)	Side, Rear	--	(b)	(b)
(2) Pole buildings	Not Permitted			
(3) Driveways	Front, Side and Rear	NA	5 (c)	5
(4) Accessory off-street parking area	Front, Side, and Rear	25 (d) (h)	5	5
(5) Fences, walls	Side and Rear	(e)	None (f)	None (f)
(6) Swimming pools	Rear	--	10	10
(7) Fire pits ⁽ⁱ⁾ , outdoor fireplaces & kitchens	Side, Rear	--	10	10
(8) Outdoor boiler, stove or furnace	Not Permitted			
(9) Yard Structures	Side, Rear	(g)	5	5
(10) Doghouses, chicken coops, rabbit hutches, beehives and other animal shelters ^(j)	Side, Rear	--	15	15
(11) Temporary storage units ^(k)	Front, Side and Rear	10' from right-of-way line	5	5

Notes to Schedule 151.1009(b):

- (a) Shall have a 10-foot setback from the principal building.
- (b) Shall comply with the side yard requirements for principal buildings set forth in Schedule 151.1005.
- (c) Except where part of a legally established shared access easement.
- (d) See also §151.1009(f)
- (e) See §151.1009(i) for fences and walls in the front yard.
- (f) Applies only to fences/walls up to 6' high. See §151.1009 (i).
- (g) See §151.1009(j) for permitted structures in the front yard.
- (h) Or right-of-way, if front property line extends to the centerline of the road.
- (i) Shall have a 25-foot setback from any combustible structure, unless in an approved container. Fire pits in an approved container shall maintain a 15-foot setback from any combustible structure.
- (j) Shall not be visible from the public street on which such residential property fronts, and such structure must be appropriately screened from abutting properties with landscaping, a fence or wall constructed and maintained according to the Code. Whether such structure is permanently affixed,

portable or mobile it shall not exceed six feet in height and it shall cover an area no greater than eighty square feet.
 (k) See also §151.1009(k)
 NA = Not Applicable

(c) Permitted Attached Structures in Front, Side, and Rear Yards. The attached accessory structures outlined in Schedule 151.1009(c) are permitted to extend into the required yards so established by the yard requirements set forth in Schedules 151.1005 and 151.1007, provided that all other applicable provisions of the Zoning Code are met.

Schedule 151.1009(c)

PERMITTED ATTACHED STRUCTURES IN REQUIRED FRONT, SIDE AND REAR YARDS

Attached Projections into Yards	Yard in Which Permitted	Maximum Projection into Required Yards
(1) Building wing wall not greater than 5 feet	Side	10 feet, provided it is a minimum of 5 feet from the side property line
(2) Skylights, sills, fireplaces, bay windows, gutters, belt courses, cornices, and other ornamental and architectural features	Front, Side, Corner Side, Rear	1 ½ feet
(3) Deck or patio (Terraces, uncovered porches, platforms, and ornamental features) also: HVAC units	Side, Rear	Provided it is a minimum of 10 feet from the side or rear property line
(4) Open or lattice-enclosed fire escapes, fire-proof outside stairways, and balconies opening upon fire towers	Side, Rear	5 feet
(5) Unenclosed or covered porch, one story high, or paved terrace	Front	10 feet
(6) Pellet Stove	Rear	--

(d) Minimum Distance Requirements for Accessory Uses of Single-Family Detached Cluster Developments, Single-Family Attached Dwellings and Multi-Family Dwellings. The minimum distances from any accessory building or use to certain walls of

principal buildings, streets and boundaries of the development area of single-family detached cluster developments, single-family attached dwellings and multi-family dwellings shall be not less than that set forth in §151.1009(d) below.

Schedule 151.1009(d)

Minimum Distances for Accessory Uses of Single-Family Detached Cluster Developments Single Family Attached Dwellings and Multi-Family Dwellings.

Accessory Building or Use	To Wall of Principal Buildings (in feet)		To the ROW of a Public Street (in feet)	To Side and Rear Lot Lines Abutting District	
	Main	End		A, B, C Districts	All other Districts (including D-2 and D-3) OM-Outer
(1) Accessory building	20	10	35	30	15
(2) Parking area	20	10	35	20	10
(3) Driveway	20	10	35 ^(a)	10	5
(4) Project walk	15 ^(b)	5	0	10	5
(5) Active recreation areas, including pool and tennis court	30	15	40	20	10

Notes to Schedule 151.1009(d):
^(a) Except as required to access the public street.
^(b) A project walk may be less than 15 feet, but not less than five feet, from a main wall if all windows have sills at least 8 feet above the finished grade.

e) Maximum Area and Rear Yard Coverage of Accessory Buildings and Structures on Lots with Standard Detached Single-Family Dwellings and Two-Family Dwellings. The maximum area and rear yard coverage of accessory buildings and structures on lots with standard detached single-family dwellings and two-family dwellings shall comply with the following requirements:

- (1) The maximum footprint for a detached garage or other accessory building shall be 576 square feet.
- (2) The maximum coverage area for all accessory buildings and structures, including pavement for driveways, patios and/or pools and decks shall

not exceed 30 percent of the rear yard.

(f) Additional Regulations for Parking Areas, and Vehicles. Open, off-street parking areas and vehicles shall comply with the following:

- (1) Accessory off-street parking spaces: Accessory off-street parking areas shall be provided in compliance with the parking requirements set forth in Chapter 151.32, which shall be located on the same lot as the dwelling served. The maximum impervious surface coverage in the front yard on residential lots with a width of 70' or greater, and panhandle lots, is 35%. On lots with a width of

50'-70', the impervious surface coverage in the front yard is limited to 40%. On irregular shaped lots with reduced frontage at the end of a cul-de-sac, the impervious surface coverage in the front yard is increased to 50%. Accessory off street parking spaces must be accessed from a driveway and not directly from a public right of way.

- (2) The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, or auto body parts, in an open yard, is prohibited on a residential lot.
- (3) The parking of a disabled vehicle within a residential district for a period of more than 2 weeks shall be prohibited, except that the vehicle may be stored in an enclosed garage or other accessory building, provided that no business shall be conducted in connection therewith while the vehicle is parked or stored. For the purposes of this subsection, a disabled vehicle shall be defined as a non-operable vehicle in its current condition or a vehicle with expired or invalid license plates.

(g) Dish-type Satellite Signal Receiving Stations. Dish-type satellite signal receiving stations may be permitted as accessory structures and may be located as specified in the Zoning Code, subject to regulations established in this section. For the purpose of this section, non-residential installations shall include elementary and secondary schools, and places of worship.

- (1) Location and Setbacks.
 - A. Stations shall be located only in the rear yard of the lot as defined in the Zoning Code, and behind the principal dwelling or structure located on the same lot. When necessary, in

order to get reception, stations may be mounted on or attached to the dwelling or building; however, in the case of a residential building installation, the dish antenna may not exceed two (2) meters in diameter.

B. Stations shall be located in conformance with the setback requirements for accessory structures set forth in this Chapter. Nonresidential installations must maintain a minimum of 5 feet from the side and rear property lines when abutting non-residential districts. When abutting a residential district, a nonresidential installation must provide a setback equal to that required for the residential zoning district that it abuts. Setback requirements apply to any guy anchorage or similar device.

C. Stations shall not be linked to receivers which are not located on the same lot as the station.

D. Not more than 1 station shall be located on any lot.

(2) Height and Diameter.

A. Residential installations shall not exceed 13 feet in height Nonresidential installations shall not exceed 15 feet in height. The height is determined by measuring the distance from the ground to the highest point of the antenna when turned perpendicular to the ground.

B. The maximum diameter of any dish antenna shall not exceed 4 meters for nonresidential installations, or 2 meters for residential installations.

- (3) The station shall be placed on a base sufficient to safely support the unit in

a secure, wind resistant manner and shall be adequately grounded.

(4) Permit Required.

A. A permit must be obtained prior to the installation of a dish antenna having a diameter of one meter or more. The permit application must include construction drawings showing the method of installation, a site plan showing the proposed antenna, principal building and their respective setbacks, sectional drawings showing the antenna height and diameter, and a landscaping plan showing screening of the antenna from neighbors. The screening may rely upon existing and/or proposed vegetation. Any vegetation utilized for screening purposes must be maintained in a condition that achieves the goal of the screening.

B. Dish antennas having a diameter less than one meter may be erected in compliance with these regulations without obtaining a permit.

(h) Swimming Pools. Private swimming pools for the exclusive use of residents of the premises may be located in any residential district provided they comply with the location and coverage requirements of accessory structures set forth in this Chapter and the supplemental regulations set forth below.

- (1) All swimming pools, together with adjacent walkways, shall be completely enclosed by a wall or fence having a minimum height of 4 feet.
- (2) For aboveground pools, the height of the pool, from the surrounding grade to the top of the pool wall, may be used as credit to meet the 4-foot fence

height requirement so long as the pool has a removable ladder or other operational device approved by the building code.

(3) All fences and other pool enclosures shall be equipped with suitable locking devices to prevent unauthorized access.

(4) The construction and operation of a pool shall meet all other applicable City regulations.

(i) Fences and Walls. Fences and walls in the residential districts shall comply with the following:

(1) Front Yards. Fences and walls over 2 feet high may not be located in any part of the front yard, except in the front yard of a panhandle lot. Wrought iron fences up to 4 feet in height may be permitted in the front yard in the Heritage District. Retaining walls required to maintain a grade, may also be permitted by the Zoning Administrator. Wrought iron fences up to 4 feet in height may be permitted in the front yard in the Heritage District.

(2) Side and Rear Yards. Fences and walls in the side or rear yard shall not exceed 6.25 feet in height above the average natural grade and may be located in any part of the side or rear yard.

(3) Construction, Maintenance and Repair. Fences shall be of chain link, picket, split rail, sapling, louver or other commonly used design, and if painted, shall be one color. Electric or barbed wires fences are prohibited. Fences and walls shall be maintained in good repair at all times by the owner and/or occupant of the lot on which they are located. The smooth

finished side of the fence or wall shall be the side of the fence that faces outward from the yard being fenced.

(4) No Permit Required. No permit is required for fences 6.25 feet or less in height, provided that all applicable regulations of this Chapter are complied with. Fences or walls higher than 6.25’ are considered structures and must meet the height and setback requirements for other accessory structures. These structures require a building and zoning permit.

(j) Yard Structures. In the residential districts, yard structures shall comply with the location and setback requirements for accessory structures set forth in this Chapter, except as otherwise regulated below:

(1) Yard structures that are not installed on a paved or hard surface shall be exempt from the rear yard coverage requirements set forth in § 151.1009(e), provided they cover an area of less than 80 square feet. If the yard structure utilizes a paved or similar hard surface, it shall be subject to the rear yard coverage requirements set forth in § 151.1009(e).

(2) Basketball hoops shall be permitted in the front or side yard, provided they do not require a paved surface in addition to an existing driveway or are mounted to a garage. The basketball hoop must be setback at least 5’ from the side property line and 10’ from the right of way line. If located in the rear yard, the maximum rear yard coverage requirements set forth in § 151.1009(e) are applicable if any additional paved surface is utilized.

(k) Temporary Storage Containers. A Temporary Storage Container may be utilized as a temporary accessory use when in compliance with the following standards:

(1) A Temporary Storage Container may be located as a temporary accessory use on property within the City for a period not exceeding thirty (30) days per calendar year in duration from time of delivery to time of removal.

(2) The owner of the property on which the Temporary Storage Container is located, or the agent of such owner using such container, shall obtain a permit, at no cost, from the Zoning Administrator no later than the first day such container is placed on site.

(3) A Temporary Storage Container shall be located on a paved surface.

(4) No more than one Temporary Storage Container may be located on a specific site at any one time.

(5) A Temporary Storage Container may not exceed eight (8) feet, six (6) inches in height, ten (10) feet in width or twenty (20) feet in length.

(6) A Temporary Storage Container shall be located a minimum of ten (10) feet from the right-of-way line and a minimum of five (5) feet from the side and rear property lines.

(7) A Temporary Storage Container shall be secured in a manner that does not endanger the safety of persons or property in the vicinity of the Temporary Storage Container and it shall be secured and enclosed in such a manner as to not permit waste, litter or debris.

(8) The standards for a Temporary Storage Container may be varied on a

case by case basis upon petition to the Zoning Administrator for good cause shown. If the Zoning Administrator should deny any such variance to the standards, then the applicant may appeal such denial consistent with Chapter 150.20 of the Land Usage Code. No such appeal; however, shall stay the enforcement of this section of the Code.

§ 151.1010 REGULATIONS FOR HOME OCCUPATIONS.

The purpose of this section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

- (a) Not more than one person other than a person residing on the premises shall be employed in a home occupation.
- (b) A home occupation shall occupy no more than 25% of the floor area of the dwelling and shall be clearly incidental and secondary in importance to the use of the dwelling for dwelling purposes.
- (c) Any merchandise that is sold from the premises shall be produced on the premises.
- (d) The business activity, including the storage of equipment, supplies or any apparatus used in the home occupation shall be conducted entirely within the dwelling unit and no use of a garage, an

accessory building or an outdoor area shall be permitted.

- (e) There shall not be any change in the outside appearance of the building or premises, or other visible exterior change related to the home occupation. Structural modifications such as a separate business entrance, colors, materials, or the construction of accessory structures not currently permitted are prohibited.
- (f) No equipment or process shall be permitted or used in such home occupation that creates a nuisance by reason of generating any noise, vibration, glare, fumes, odors, or electrical interference, or which is determined unsafe.
- (g) No signs shall be permitted on the lot that designates employment or home occupations.
- (h) Traffic.
 - (1) Employee parking shall be located off the street with the applicable front, side and rear yard requirements maintained.
 - (2) The conduct of a home occupation shall not reduce or render unusable areas provided for required off-street parking areas for the dwelling unit
 - (3) Traffic generated by a home occupation shall not exceed the average daily volume normally expected for a residence in a residential neighborhood, which for the purpose of this § equals up to 10 round trips per day.
 - (4) Deliveries for the business are limited to an average of once per day. Delivery by a truck with more than two axles is prohibited.
- (i) All persons wishing to conduct a home occupation shall apply for an

accessory use permit, as required in Chapter 150.12.

§ 151.1011 FAMILY DAY CARE HOME, TYPE “B”.

This Zoning Code recognizes that the availability of safe and affordable, good-quality child day care is important to the well being of parents and children. Furthermore, it is the purpose of this Section to regulate the operation of child day care in a manner that preserves the residential character of neighborhoods. According to ORC 5104.054, any type B family day-care home, whether certified or not certified by the county director of human services, shall be considered to be a residential use of property for purposes of zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. A type “B” family day-care home is a permanent residence of the provider where child care is provided for 1 to 6 children and where no more than three children are under two years of age. For the purpose of this definition, any

children under six years of age who are related to the provider and who are on the premises of the day-care home shall be counted. Type “B” family day-care homes are a permitted accessory use in residential districts, and do not require a zoning certificate.

**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, 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) 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.

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

§151.1203 SCHEDULE OF PERMITTED USES.

	Office District "O"	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 ^(e)	C ^(a)
4. Retirement villages	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		C	C	P	C
B. Community Facilities					
1. Places of worship	C	C	C	C	C
2. Daycare within churches, schools	P	P	P	P	P
3. Day care center (child and adult)	P	P	P	P	P
4. Public utility substations	C	C	C		
5. Libraries, museums	P	P	P	P	P
6. Public safety facilities	P	P	P	P	P
7. Public service facilities			C		
8. Schools, public & private	C	C	C	C	C
C. Medical Facilities					
1. Hospitals	C ^(d)		C		
2. Nursing Homes	C		C		

Notes to §151.1203:

- (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
- P = Use Permitted by Right
- C = Conditional Use
- A = Accessory Use

	Office District "O"	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
2. Banks and other financial institutions	P	P	P	P	P
3. Public Offices	P	P	P	P	P
4. Medical offices of physicians, dentists, health and allied services	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		A	A	A	
4. Drive-through facility in association with a permitted use	P	P	P	C	P
5. Retail sales, such as, drug stores, grocery, fruit or vegetable store, art gallery, hardware or hobby store, food locker, dry goods or wearing apparel stores in completely enclosed building		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
2. Taverns, bars, cocktail lounges			P	P	P
3. Outdoor dining		P	P	P	P

Notes to §151.1203:

- (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
- P = Use Permitted by Right
 C = Conditional Use
 A = Accessory Use

	Office District "O"	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	C
2. Barber and beauty shops		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		
6. Motels, hotels			P		P ^(a)
7. Studios for instruction		P	P	P	P ^(b) C ^(c)
8. Shoe repair, tailoring		P	P	P	P
9. Construction and Mechanical Services			P		
H. Automotive/Transportation					
1. Parking as principal use (lot or garage)			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
4. Clubs, lodges or other assembly halls	P		P		C ^(a)
5. Outdoor recreation including tennis, handball courts, miniature golf courses, swimming pools and other similar uses			C		
	<p><u>Notes to §151.1203:</u> (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 P = Use Permitted by Right C = Conditional Use A = Accessory Use</p>				

	Office District "O"	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	
2. Off-street parking and loading areas	A	A	A	A	A
3. Fences, walls, landscape features	A	A	A	A	A
4. Trash receptacles	A	A	A	A	A
5. Signs	A	A	A	A	A
<p><u>Notes to §151.1203:</u></p> <p>(a) Permitted in the "outer area" only. See City Zoning Map for boundaries of outer area.</p> <p>(b) Uses above the first floor.</p> <p>(c) Uses on the first floor.</p> <p>(d) Except as permitted by right per §151.1215</p> <p>(e) Only as part of a Mixed Use Development</p> <p>P = Use Permitted by Right</p> <p>C = Conditional Use</p> <p>A = Accessory Use</p>					

§151.1204 LOT REQUIREMENTS.

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

**Schedule 151.1204(a)
LOT REQUIREMENTS**

	Office District “O”	Limited Business “L-B”	General Business “G-B”	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.	none	none
(2) Minimum Lot Width	75 ft.	75 ft.	75 ft.	none	none
(3) Mandatory Building Width	--	--	--	70% of lot width ^(b)	none
(4) Maximum Impervious Surface Coverage	--	60% of lot area	--	--	--

Notes to Schedule 151.1204(a):

(a) See City Zoning Map for boundaries of core area vs. outer area.

(b) See also § 151.1204 (b).

(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"	Limited Retail "L-B"	General Business "G-B"	Old Montgomery District "OM" (a)	
				Core Area	Outer Area
(1) Front Yard	30 ft.	30 ft.	30 ft.	0	10 ft.
(2) Side Yard	10 ft. (b)	10 ft. (b)	10 ft. (b)	0	5 ft.
(3) Rear Yard	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.	15 ft.	15 ft.

Notes to Schedule 151.1205:

- (a) See City Zoning Map for boundaries of core area vs. outer area.
- (b) Or ½ of the building height, whichever is greater.

(b) Front Yards of Built-Up Blocks. In an O, 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, 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.

§ 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"	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)}	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.	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.	Side - (d) Rear - 5 ft.	10 ft.	20 ft.

Notes to Schedule 151.1207:

- (a) See City Zoning Map for boundaries of core area vs. outer area.
- (b) When the front yard abuts or faces a residential district, no parking may be located in the front yard.
- (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.
- (d) Not permitted in side yard.
- (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.

§ 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 building 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 the site. As an alternative, a business may display a single sign up to six (6) sq. ft to

list all of the products for sale when there are four or more different types of products on display. The sign must be oriented toward customers at the display and not off site. Permanent outdoor display signs may be either fixed message or hand-decorated, must meet the requirements of Section 151.3016, and can not be illuminated.

§ 151.1209 REGULATIONS FOR TEMPORARY OR SEASONAL OUTDOOR SALES AND DISPLAYS.

Temporary outdoor sales and displays associated with an established commercial/retail use or community markets, community events, programs and festivals, shall be permitted in compliance with the following regulations:

(a) Temporary outdoor sales and displays of for-profit merchandise offered by or through an existing business use approved in the community are permitted as a use in the district where located so long as such temporary outdoor sale or display is approved as provided herein.

- (1) Such sales associated with a commercial/retail use which do not exceed three (3) consecutive days and which are held no more frequently than four (4) times per calendar year may be approved by the Zoning Administrator upon application. All other applications for approval require review and approval by the Planning Commission.
- (2) All applications for outdoor sales must demonstrate that the principal use on the lot will continue to meet all parking requirements during the periods for such sales, there will be no impact upon interior circulation and there will be no significant increase in lighting and noise.

- (3) Such outdoor display areas must maintain setbacks equivalent to setbacks for the parking areas of that district.
- (4) The area of the lot devoted to outdoor display shall not exceed twenty percent (20%) of the ground floor area of the principal building.
- (5) No additional signage is permitted for such sale and/or display with the exception that temporary signage may be erected consistent with Section 151.3015(e), Special Event Signs.
 - (b) Community Markets are defined as the temporary outdoor sale and display of goods operated by a not-for-profit or service organization supporting the Montgomery community. Community Markets are such sales or displays operated by such organization which exceed more than three (3) consecutive days or which are held more frequently than four (4) times per year.
 - (1) Such Community Markets may be located in a residential district so long as they are sited on a conditionally permitted use site, and may be located in Business Districts consistent with these regulations.
 - (2) The location and operation of such Community Markets must be approved in advance by the Planning Commission and application approval shall demonstrate that there is adequate parking available to accommodate the event and the approved use of the site. Agreements with adjoining property owners for additional parking may be permitted for limited periods of time.
 - (3) The area of the lot devoted to the Community Market shall not exceed twenty percent (20%) of the ground floor area of the principal building,

or if such Community Market is operated on a vacant lot, no more than fifty percent (50%) of the lot may be used for the sale or display of merchandise.

- (4) The application shall set forth the hours of operation and provide sufficient additional detail concerning required licensing, location and installation of utilities, property maintenance, on-site signage, traffic circulation and safety, and such other information as is required by the Zoning Administrator to determine the effect and impact of the proposed market on the community and surrounding properties.
- (5) Signage shall be permitted for a Community Market consistent with Section 151.3015(e), Special Event Signs.

(c) Community Events such as festivals, concerts, arts and craft shows, and similar events which are operated by a public entity or not-for-profit organization supporting the Montgomery community, are events which do not exceed three (3) consecutive days nor occur more than four (4) times per year. Such Community Events may be approved by the Zoning Administrator on appropriate application. The area of the lot devoted to the Community Event is not limited provided there is adequate parking available to accommodate the event and the approved use of the site. Agreements of the adjoining property owners for additional parking may be permitted for limited periods of time. The Zoning Administrator may require such additional information in an application as is necessary to determine what impact, if any, the event will have on surround property owners and the community including information concerning the duration of the event, hours of operation,

licensing security and property maintenance, parking and traffic circulation, access for emergency vehicles, noise, light and signage. Off-site signage for a Community Event is permitted consistent with Section 151.3015

§ 151.1210 OUTDOOR DINING.

Outdoor dining shall comply with the following regulations:

(a) Outdoor dining shall only be permitted as an accessory use to an indoor restaurant. Outdoor seating shall not obstruct a public right-of-way or sidewalk nor any entrance or exit to the restaurant, except as provided in subsection (h) below.

(b) Outdoor dining areas must meet the setback requirements for principal buildings.

(c) The number of seats permitted outdoors shall be no greater than 30 percent of the number of seats inside the restaurant.

(d) The outdoor dining area shall be limited to seating only and shall not include table bussing facilities or cooking facilities.

(e) Permanently installed sound systems that are used for low level background music and as part of a television system may be permitted by the Planning Commission when the dining area is located at least 100' from a single family residential district. Any sound system to provide entertainment on a temporary basis must be portable and must be removed at the end of each business day. All outdoor dining activities, including any entertainment, are subject to the City's noise ordinance and related limitations thereto.

(f) Outdoor heaters in the dining area may be permitted only pursuant to appropriate health and fire codes enforced in the City of Montgomery.

(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, L-B, G-B 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’ 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 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.

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

- (1) Principally Permitted Uses
 - Hospital and related healthcare facilities including extended care facilities, medical office and outpatient service facilities, and medical and nursing education and research facilities.
- (2) Accessory Permitted Uses
 - (a) Residential uses for hospital personnel or housing exclusively for persons temporarily visiting patients.
 - (b) Pharmacies and other retail facilities servicing the hospital when located in a building in which the primary use is a principally permitted use.
 - (c) Places of worship.
 - (d) Parking for the hospital site.
- (3) Other Uses
 - Any additional permitted and accessory uses within the “O” Office District are recognized for the Bethesda site. Any conditionally permitted uses from the “O” Office District which have not been recognized herein as Permitted or Accessory Uses for the Bethesda site shall remain conditionally permitted for the site and must be considered pursuant to Chapter 150.16. By way of an example, and not by way of limitation, the “O” Office District recognizes hospitals as a conditionally permitted use. The 1967 ordinance, as modified by the 1995 ordinance and adopted herein as Section 151.1216(C), recognizes *Hospitals* as a permitted use for the site. Therefore, any site development

within the defined *Hospital* use does not require a review under Section 150.16 for development expansion, but as a permitted use any development expansion within the *Hospital* use requires Section 150.14 Development Plan Approval.

(d) Height, Setback and Open Space Requirements. The following height limitations, building and setbacks and open space requirements shall govern the development and use of the property:

- (1) Height Requirements. No building shall be erected to a height greater than permitted in Schedule 151.1216(d).

**Schedule 151.1215(d).
MAXIMUM BUILDING HEIGHT PER STORY**

Distance to South Boundary of Property	Maximum Building Height (12 feet/Story)
150 feet to 250 feet	2 Story (24 feet)
More than 250 feet to 300 feet	3 Story (36 feet)
More than 300 feet to 350 feet	4 Story (48 feet)
More than 350 feet to 450 feet	5 Story (60 feet)
More than 450 feet to 550 feet	6 Story (72 feet)
More than 550 feet to 650 feet	7 Story (84 feet)
More than 650 feet	8 Story (96 feet)

- (2) Building and Parking Setback Requirements. Structures shall be set back a minimum of 50 feet from the north, east and west boundaries of the property. Structures in excess of 60 feet in height shall be setback an additional one (1) foot for each foot by which the building exceeds 60 feet. Surface parking may be constructed to within 25 feet of the north, east and west boundaries.

the easternmost property line of Parcel 140, Book 9, Hamilton County Auditor’s Plat Book 603. Within the greenbelt, east and west berms shall be maintained with a one (1) to three (3) slope, a minimum of eight (8) feet in height, and shall substantially screen the adjacent residential properties from the parking areas and other developments on the subject property and the light and glare therefrom.

- (3) Greenbelt. Along the south line of the property to a depth of 150 feet there shall be a greenbelt which shall include berming and planting as follows:

- (A) Along the south line of the property, commencing 150 feet west of Parcel 149, Page 9, of Hamilton County Auditor’s Book 603, to a depth of 150 feet there shall be a greenbelt maintained and planted with trees and shrubbery, which shall extend to

- (B) The west berm shall be established along the south property line behind Parcels 145 through 149. The berm’s center line shall be 54 feet north of the south line of the property beginning at a point approximately midway between the east and west property lines of Parcel 145 at the edge of the existing tree cover, and continuing westward behind Parcel 148. At the western edge of Parcel 148, the

centerline shall bear 30 degrees northwest until it intersects a berm center line running parallel to the south property line and 100 feet north of the property line behind Parcel 149. The berm's centerline shall proceed at 52 degrees southwest to intersect the property line of Parcel 149.

- (C) In the area where no tree cover exists adjacent to the dead end of Pendery Drive, the east berm shall be constructed approximately 80 feet inside the property line and shall extend 100 linear feet. After planting, the east berm shall be maintained in a natural state.
- (D) Those areas within the greenbelt in which no berm is required shall remain covered with existing trees and other vegetation, provided that the existing wooded area is maintained to a depth of 150 feet from the south property line. For those residents whose properties abut the existing wooded area, the owner of the subject property shall offer to plant Eastern Hemlocks within the wooded area, recognizing that the planting of each tree may require some clearing. The maximum number of trees shall be 15 trees per 100 linear feet of property line. These trees shall have a minimum height of five (5) feet. For this purpose, an adjacent homeowner will be determined by an extension of the eastern and westernmost property lines of each resident's property.
- (E) Plantings shall be installed and maintained on the earth berms, which shall meet the following minimum standards. The majority of the following required plant materials are to be located within the top one-third (1/3) portion of the berm, on the side facing the residential property.

1. Every 100 linear feet shall contain at least five (5) deciduous trees. These

trees shall have an average height of 15 feet at the time of planting. Recommended plants are Maple, Ash, Linden, and Oak or their equal.

2. Every 100 linear feet of the earth berm shall contain at least 10 conifer trees. Each tree shall be a minimum of 10 feet in height at the time of planting. Recommended plants are White Pine, Austrian Pine and Norway Spruce or their equal.

3. Shrubs and ground cover shall be located and maintained on the earth berm at a density of 20 shrubs per 100 linear feet of berm, which shrubs shall be a minimum of three (3) feet in height.

4. The number of trees required shall be calculated by dividing the actual length of the berm by 100, multiplying by the number of trees required per 100 feet and rounding off to the next highest integer.

- (F) All required trees and plants shall be maintained in a healthy condition and replaced with a similar type or its equal if damaged or destroyed. Further, the greenbelt area shall be maintained in good order and kept free of debris. The construction of any earth berm shall not adversely impact private property by obstructing water runoff. The berm must include a swale on each side leading to storm sewer drains or an alternative equal or better drainage system.

- (1) Compliance. For the first six (6) years following the installation of the berms, no construction shall take place within 250 feet of the southern line of the property. After six (6) years from the construction of the berms, the greenbelt shall be maintained within 150 feet of the southern line of the property.

- (2) Tree Replacement. No trees within the greenbelt shall be removed except as may be necessary to work being performed on recorded easements or to remove dangerous or diseased trees. Any trees removed for any reason shall be replaced within 90 days, where possible, with the same or similar species and shall at the time of planting, conform to the planting sizes specified in subsection (3) E above.
- (3) Construction Criteria within 250 Feet of Property Line. The setbacks from district lines shall be maintained as contained in (c)(1) and (2) of this Section. Any construction within 250 feet north from the corner of Radabaugh Drive and Montgomery Road shall be done in an architectural style that shall reflect the transition from the residential uses along Radabaugh to the larger structures located further north on the property.
- (4) Access. All development shall be such that no entrance or exit, public or private, shall be to or from any public right-of-way other than Montgomery Road.

§ 151.1216 DEVELOPMENT PLAN REVIEW.

All uses in a nonresidential district shall be permitted only after development plans have been reviewed and approved by the Planning Commission according to the procedures set forth in Chapter 150.14.

**CHAPTER 151.13
Planned Unit Development**

151.1301	Purpose.	151.1308	Appeal of Planning Commission Action
151.1302	District Designation and Applicability.	151.1309	Significance of an Approved PUD Final Development Plan
151.1303	Permitted Uses.	151.1310	Expiration of PUD Development Plan Approval
151.1304	General Standards and Conditions.	151.1311	Modifications to an Approved PUD Final Development Plan
151.1305	Review Criteria.	151.1312	Appeal of Decisions on Modifications
151.1306	Application Review and Approval Process.		
151.1307	Final PUD Development Plan Review and Approval Process		

§ 151.1301 PURPOSE

The purpose of the Planned Unit Development (“PUD”) Regulations is to encourage and allow more creative and efficient design of land developments than is possible under subdivision and district zoning requirements. The PUD Overlay District is intended to allow substantial flexibility in planning and design. This flexibility often accrues in the form of relief from compliance with conventional subdivision regulations and zoning ordinance site and design requirements. This flexibility should result in a development that is more compatible and harmonious with the natural environment, surrounding land uses, and the goals, objectives, and policies of the community. An intrinsic premise upon which approval of a PUD plan is conditioned is that while greater density or more lenient siting requirements may be granted, the PUD should contain features not normally required of traditional developments.

§ 151.1302 DISTRICT DESIGNATION AND APPLICABILITY

The PUD District is an overlay of alternative regulations, including procedures and standards that are applicable to all land within the jurisdiction of these regulations in accordance with the provisions of this chapter. The PUD Overlay District is established on the official zoning map in accordance with

Chapter 151.01 following the zoning amendment process outlined in the Land Usage Code. This overlay district enables individual property owners to request approval on their property in accordance with the provisions of this chapter. Each PUD District is delineated on the zoning map with a specific reference number identifying each separate district.

§ 151.1303 PERMITTED USES

The uses permitted in a planned unit development overlay must be either permitted by right or conditionally permitted in the underlying zoning district. Residential uses are permitted in the LB and GB Districts as part of a mixed use development pursuant to the regulation in Chapter 151.20. Office and commercial uses may be permitted in a residential district only as an accessory use intended to provide services to meet the needs of the PUD residents. In these instances, office and commercial use are restricted to 5% of the gross square footage of the entire PUD and the area (building footprint and outdoor use) shall not be more than 3% of the gross land area of the PUD.

§ 151.1304 GENERAL STANDARDS AND CONDITIONS

Applications for Planned Unit Developments must meet the following minimum standards:

- (a) The minimum land area for a PUD is two acres.
- (b) The site area of the proposed PUD must be under single ownership and/or unified control.
- (c) The PUD must be generally consistent with the City of Montgomery Comprehensive Community Plan.
- (d) Project perimeter setbacks must be equal to or greater than the setbacks required in underlying zoning district, including buffer requirements.

§ 151.1305 REVIEW CRITERIA

In order to receive approval of a Planned Unit Development Overlay designation, the applicant must demonstrate that the following principles are met:

- (a) Compatibility with Surrounding Land Uses: The proposed uses in the Planned Unit Development are consistent with the current or proposed underlying zoning and are compatible with the uses on abutting properties and the area in general. The uses must be of a type and so located as to cause no undue detrimental impact on surrounding properties.
- (b) Density: The residential density of the Planned Unit Development should not exceed 150% of the residential density requirements of the underlying district. The residential density in a mixed use development in the OM Outer, LB, or GB District shall be established by the City of Montgomery as part of the PUD approval. Any increase in density should be related to a corresponding increase in the amount of open space provided, and should not result in a significant increase in impervious surface coverage from what would normally be expected under standard zoning.
- (c) Open Space: The Planned Unit Development shall provide for the reservation, within the tract to be developed, of a significant amount land area as common public open space. This may include such areas as pedestrian corridors between different

uses, public gathering places, park land, or sensitive environmental areas. This common open space shall be conveyed to a legally established property owner association or trust, unless it is determined by the City that it should be publicly dedicated. The area shall be in such a composition and configuration as to be desirable as a gathering space or passage way, and should not consist of isolated or fragmented pieces of land that provide no public use or benefit. In general, PUD site plans should demonstrate a minimum of 20% of gross land area as open space, exclusive of private streets, parking areas, sidewalks that are an integral part of a specific use, or the required perimeter setbacks. Not more than 50% of the open space may be designated for storm water detention or retention basins.

§ 151.1306 APPLICATION REVIEW AND APPROVAL PROCESS

- (a) Pre application Process. Prior to preparing or submitting a complete application for a PUD Overlay approval, an applicant should meet with the Community Development Director or other administering official to present the concept of the proposed development and to discuss the procedures and standards for development plan approval. The intent of this conference is to facilitate the filing and consideration of an innovative development plan and complete application and to outline for the applicant the review process and general PUD standards. No representation made by the Community Development Director or Administrative Official during such conference or at any other time shall be binding upon the City with respect to the application subsequently submitted.
- (b) PUD Application and General Development Plan Submittal. An applicant for a PUD Overlay shall file an application on a form or forms provided by the City. The application shall include all of the information required for a general development plan identified in Chapter 150.14 plus the following additional information:

- (1) A project narrative explaining the basis for the request for PUD designation.
 - (2) A summary table comparing the proposed residential dwelling unit density of the development to the underlying or proposed underlying zoning density regulations.
 - (3) A summary table analyzing the amount of common open space proposed with a designation that allows individual areas to be identified on the site plan and designates which land, if any, is intended to be publicly dedicated. Land that is to remain in private ownership controlled by a property association or trust should be identified and the proposed covenants outlined.
 - (4) Identification of what rights of way is to be dedicated and if private streets or alleys are proposed.
 - (5) A summary table outlining what other variances from subdivision and zoning regulations are being requested (i.e.: building height, lot width, setbacks, sidewalk or road construction standards, etc.)
 - (6) Evidence of legal control of the property to be designated for the PUD.
 - (7) The proposed schedule of site development, construction of structures and associated facilities. If the PUD is a large tract of land that will be developed in multiple sections, the proposed schedule should reflect the anticipated timing for submittal of final development plans for each section.
 - (8) Proposed general lighting plan for streets, parking areas and outside activity and/or storage areas.
 - (9) Preliminary landscape plan, with particular emphasis on perimeter buffer landscaping, park and open space landscaping, and parking area landscaping.
 - (10) Preliminary storm water detention plan as part of a finish grading plan.
 - (11) PUD application fee as established by City Council.
- (c) Staff Review and Notification Procedures. The PUD application and General Development Plan will be reviewed in accordance with the review procedures for General and Final Development Plans outlined in Chapter 150.14.
- (d) Planning Commission Review of a PUD General Development Plan. The Planning Commission shall review a PUD application and General Development Plan to determine if such application complies with the review criteria set forth below. The Planning Commission shall take into consideration the comments and recommendations of staff, consultants, and testimony at the public meeting when reviewing the application. In order to approve a PUD application and General Development Plan, the Planning Commission shall apply the following general standards:
- (1) The application is consistent with the standards for general development plans outlined in Chapter 150.14.
 - (2) The proposed development is served adequately and efficiently by essential public facilities and services including road systems, water, sewer, gas, and electric services.
 - (3) Internal streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and there is adequate and appropriate ingress and egress to public thoroughfares adjacent to the development.
 - (4) Internal circulation allows efficient pedestrian access within the development.
 - (5) The phasing plan of the development is appropriate and the development

can be substantially completed within the period of time specified in the schedule submitted by the applicant.

- (6) Proposed modifications of the standard regulations of the subdivision or zoning code are warranted by the innovative design of the development plan and are not simply for the convenience or economic benefit of the applicant.
- (7) Proposed modification of any subdivision or zoning regulation has been compensated for by an increase in other site amenities that exceed the minimum requirements established for standard developments.
- (8) Adequate provision has been made for the ownership and on-going maintenance of designated public open spaces and buffer zones, as well as any private drives, pedestrian walkways, or storm water management facilities.
- (9) The proposed open space and improvements to be publicly dedicated are appropriate for public acceptance and are of such construction and configuration that they do not create an undue burden to access or maintain.
- (10) The proposal provides adequate lighting to provide security throughout the development while still being consistent with the lighting standards of Sections 151.1213 and 151.3212 or successor sections of the Land Usage Code.
- (11) The proposed development provides a desirable landscaping plan for interior parking areas, common areas, and perimeter buffer zones.
- (12) The storm water management plan is desirable and sufficient to meet City regulations related to both storm water quantity and quality.

(e) Action by Planning Commission. The Planning Commission shall act on an

application for PUD and general development plan approval in accordance with the provisions for amendments to the zoning code specified in Chapter 150.22. The Commission shall present a written findings of fact outlining the basis of their recommendation.

(f) Public Hearing and Notice by Council. Upon receipt of the recommendation from Planning Commission, Council shall set a time within 60 days for a public hearing on the proposed amendment. Notice of the public hearing shall be provided according to the requirements for zoning amendments.

(g) Action by Council. At the conclusion of the public hearing, Council shall consider the evidence provided at the hearing along with the comments and recommendations of staff and the written findings of fact of the Planning Commission and shall act on the application in accordance with the requirements of Chapter 150.22 for zoning amendments.

(h) Effect of Council PUD Application and General Plan Approval. The approval of a PUD application and General Development Plan represents approval of a change in the zoning map of the City of Montgomery. Thirty days following the approval by Council of a PUD application and General Development Plan approval, the City shall cause the zoning map to be amended to represent the PUD approval and provide a designation and number on the zoning map for the PUD. The general development plan is adopted as part of the zoning amendment and becomes part of the ordinance adopting the PUD.

The approved development plan may not be transferred by the applicant to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit, without the written approval of the City Council which shall be done by Resolution. A request for such a transfer or change of ownership shall be presented to the Planning Commission for recommendation to Council and granted by Council only if the new ownership entity satisfies the

administrative, financial, legal and all other performance guarantees approved with the original PUD application. The Ordinance approving such PUD and General Development Plan shall acknowledge this procedure for assignment of the PUD rights

(i) Expiration of PUD and General Development Plan Approval. An approved PUD application and General Development Plan shall remain valid for a period of twelve months following the effective date of its approval. This period may be extended for up to six months by the Planning Commission, after demonstration of just cause by the applicant. If at the end of that time, a final development plan has not been submitted, then the PUD application and General Development Plan shall expire and shall be of no effect unless resubmitted and approved in accordance with the previous provisions of this Chapter. The Ordinance approving such PUD and General Development Plan shall acknowledge this termination procedure.

§ 151.1307 FINAL PUD DEVELOPMENT PLAN REVIEW AND APPROVAL PROCESS

After the effective date of the approval of the PUD application and General Development Plan, the applicant may submit a final development plan for the total development or for sections as outlined in the approved phasing plan of the general development plan. A final development plan must be consistent with the general development plan and must be submitted within twelve months to the Community Development Director or other authorized official.

(a) Submittal Requirements for Final PUD development plan. An applicant for PUD final development plan approval shall file an application on a form provided by the City. The application shall include all the information required for a final development plan identified in Chapter 150.14 plus the following additional information:

- (1) A project narrative describing how the final development plan is consistent with the approved general development plan.
- (2) A summary table confirming the proposed residential dwelling unit density is consistent with the approved PUD application and general development plan.
- (3) A summary table depicting precisely the amount of common open space proposed with a designation that allows individual areas to be identified on the site plan and designates which land, if any is intended to be publicly dedicated. Land that is to remain in private ownership controlled by a property owner association or trust should be identified. Draft covenants for the property owners association or other authority must be submitted.
- (4) A summary table identifying the precise amount and nature of any modifications from subdivision and zoning regulations that were approved as part of the general development plan approval.
- (5) Final development plan fee as established by Council.

(b) Staff Review and Notification Procedures. The final development plan will be reviewed in accordance with the review procedures for general and final development plans outlined in Chapter 150.14.

(c) Planning Commission Review of Final PUD Development Plan. Planning Commission shall review the final PUD development plan to determine if it is consistent with the approved PUD application and general development plan. The Commission shall review the application based on the design and conditions attached to the approved PUD application and general development plan and make written findings of fact as to whether the final development plan and conditions are consistent with the

approved general development plan and associated conditions.

(d) Action by Planning Commission. The Planning Commission shall act on the PUD final development plan application in accordance with the procedures outlined in Chapter 150.14.

§ 151.1308 APPEAL OF PLANNING COMMISSION ACTION

A denial of the PUD final development plan can be appealed to Council pursuant to the procedures outlined for appeals of other final development plans in Chapter 150.14.

§ 151.1309 SIGNIFICANCE OF AN APPROVED PUD FINAL DEVELOPMENT PLAN

An approved PUD final development plan shall become for the proposed development a binding commitment of the specific elements approved for the development. If the PUD includes the subdivision of land, a final plat must be prepared and submitted to Planning Commission for signature in accordance with the platting provisions for subdivisions in Chapter 156.02. A final record plat must be submitted for at least the first section of the development within six months of the approval of the final development plan.

§ 151.1310 EXPIRATION OF PUD DEVELOPMENT PLAN APPROVAL

(a) Projects without platting requirements. An approved PUD final development plan that does not require a final plat shall remain valid for a period of twelve months following the effective date of its approval. This period may be extended for up to six months by the Planning Commission, after demonstration of good cause by the applicant. If at the end of that time a building permit has not been issued, then the PUD application, general development plan and final development plan shall expire and be of no effect unless resubmitted and approved in accordance with the previous provisions of this Chapter. If the building permit expires without construction

having been started, the PUD application and subsequent plans shall expire and must be resubmitted and approved in accordance with this Chapter. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed.

(b) Projects which require filing record plats. An approved PUD that does require a final plat due to subdivision of the property shall remain valid for a period of six months following the recording of the final plat. If after that time bonds have not been secured and construction begun on required public improvements, then the PUD application and subsequent plans shall expire and will require re-submittal and approval in accordance with the provisions of this Chapter. Building permits must be issued within six months of approval of a final plat that does not require construction of public improvements, or six months following the beginning of construction of public improvements.

§ 151.1311 MODIFICATIONS TO AN APPROVED PUD FINAL DEVELOPMENT PLAN

Modifications to an approved PUD final development plan may be considered to be minor modifications, significant modifications, or major modifications.

(a) Minor Modifications. The Community Development Director or other authorized official may authorize minor modifications to a PUD final development site plan. Minor modifications shall be the minimum necessary to overcome a particular difficulty or to achieve a more functional and desirable use of the property than was initially anticipated. These modifications have become necessary because of field conditions, detailed engineering data, topography or critical design criteria. Minor modifications may include adjusting the size and location of drainage ways, sewers, circulation elements, retaining walls, or similar features and to substitute, without reducing, landscape materials. Minor modifications may also include

structural dimensional changes provided they do not increase building heights by more than ten feet, floor area by more than five percent, decrease the number of parking spaces by more than ten percent or allow buildings closer to the property lines. No minor modification shall result in a violation of any subdivision or zoning requirement or any variance from these requirements granted by a condition of the PUD approval. The Community Development Director or other authorized official may deem any request for a minor modification to be a significant modification and refer the request to the Planning Commission for determination under the provisions set forth below.

(b) Significant Modifications. The Planning Commission may authorize modifications to the PUD final development plan provided that the modifications are consistent with the approved PUD and general development plan approved by Council. The applicant shall submit significant modifications for Planning Commission consideration pursuant to the procedures for final development plan approval outlined in this Chapter. If the Planning Commission determines that the proposed modification is not consistent with the approved PUD and General Development Plan, they will deny the modification and direct the applicant to submit a revised general development plan to Council.

(c) *Major Modification.* Council may approve major modifications to a previously approved PUD application and general development plan. Any modification that does not meet the standards for a minor or significant modification shall be considered a major modification and require approval by Council according to the procedures outlined herein for initial approval of a General Development Plan.

§ 151.1312 APPEAL OF DECISIONS ON MODIFICATIONS

(a) Appeal of Decision of Community Development Director or Other Authorized Official. Any party aggrieved by the

administrative decision of Community Development Director or other authorized official may appeal the decision to the Planning Commission. The appeal must be filed within fourteen days of the date of the written decision. The Planning Commission will hear the appeal within thirty days of receipt of the appeal.

(b) Appeal of Decision of Planning Commission. Any party aggrieved by the administrative decision of the Planning Commission may appeal the decision to City Council pursuant to the procedures outlined in Chapter 150.14.

CHAPTER 151.14
Heritage Overlay District Regulations

- 151.1401 Purpose.
- 151.1402 Application of the district.
- 151.1403 Use regulations.
- 151.1404 Development standards.
- 151.1405 Design review criteria.
- 151.1406 Review procedures.

§ 151.1401 PURPOSE.

The Heritage Overlay (H-O) District is established in order to set specific design criteria for both rehabilitation and new construction projects within the Heritage Overlay District in Montgomery. Therefore the purposes of this Chapter are to:

- (a) Guide development in the Heritage Overlay District to protect the valuable historic and architectural resources and 19th century character of the City of Montgomery.
- (b) Ensure that new development and/or redevelopment respects the City’s historic qualities and resources through compatible design.
- (c) Provide the basis for consistent and objective decision making by providing criteria and a review process to be used by the Zoning Administrator, Landmarks Commission, Planning Commission and City Council when evaluating proposed development.
- (d) Provide standards for property owners, architects and contractors to aid in the preparation of appropriate plans.
- (e) Increase public awareness of the value of the historic resources and appropriate design.

§ 151.1402 APPLICATION OF THE DISTRICT.

The Heritage Overlay District shall be in addition to and shall overlay all other zoning districts where the H-O is established. Therefore, any parcel of land lying in the H-O

district shall also lie in one or more zoning districts provided for in this Zoning Code. The Heritage Overlay District shall be established in accordance with the required procedures for a Zoning Map amendment pursuant to Chapter 150.22. The boundaries of the Heritage Overlay District shall be indicated on the Zoning Map and the district designation of H-O shall be superimposed over the existing zoning designations.

§ 151.1403 USE REGULATIONS.

The uses permitted in the Heritage Overlay District shall be governed by the permitted uses established in the underlying zoning districts.

§ 151.1404 DEVELOPMENT STANDARDS.

All lots, buildings, and structures in the Heritage Overlay District shall comply with the Secretary of the Interior Standards for Rehabilitation. When preservation work is done which involves a modification to a Landmark or contributing structure, the work shall be approached using the principle of reversibility. All lots, buildings and structures must also comply with the standards set forth in the underlying zoning districts except as otherwise specifically modified in this chapter. In the event of a conflict between regulations of the H-O District and the underlying district, the regulations of this Chapter shall supercede.

§ 151.1405 DESIGN REVIEW CRITERIA.

The following design review criteria are in addition to the specific regulations and

requirements set forth in the underlying zoning districts. All proposals in the Heritage Overlay District shall comply with the following Design Review Criteria. Further, the Design Review Criteria are applicable to all Landmark Properties as defined in §150.03 wherever located in Montgomery and are applicable to the Landmark itself, the underlying real property, and any improvements thereon:

(a) Design Review Criterion # 1 BUILDING HEIGHT, SHAPE, SCALE: Ensure that building height, shape and scale are appropriate to the District, the era and the architecture of the building.

- (1) Minimum building height shall be two stories for the front elevation(s) facing a street. Maximum height shall be determined by the existing skyline of adjoining buildings and/or across the street, and in no case shall exceed 25 feet as measured from the grade line to the gutter. Additional stories may be permissible for the rear or side elevations when lower grade lines allow, but in no case shall exceed 40 feet as measured from grade line to gutter.
- (2) A building’s vertical and horizontal dimensions shall be in proportion to each other without over emphasis of either dimension. Horizontally long buildings shall be broken up, through the use of recesses or setback variations, to cause the elevation to appear as a series of proportionally correct masses.
- (3) Overall building mass must be in appropriate proportion to adjoining buildings, the lot upon which the building is intended, as well as other similar buildings in the district.
- (4) For new construction, the top of the exposed foundation shall, to the extent possible, be set within 10% of the average height of the foundation of the building on either side.

(b) Design Review Criterion # 2 ROOFLINE, CONTOUR, CORNICE:

Ensure that roofline, contour and cornice are appropriate to the District, the era and the architecture of the building.

- (1) The roof of a primary structure shall be gabled and/or a shed roof. On a two-story building, a flat roof with a gabled appearance may be permitted.
- (2) For a gabled roof, the height of the gable shall not be less than ¼ of the building height as measured from the grade line to the gutter. The roof of an attached shed may have a lower pitch than the roof over the main structure.
- (3) For new construction, the cornice shall be strong, well articulated and well proportioned.

(c) Design Review Criterion #3 WINDOWS, DOORS: Ensure the rhythm and character of windows and doors are appropriate to the District, the era and the architecture of the building.

- (1) The shape and configuration of windows and doors shall be based on historic and traditional design. Window panes shall be divided into smaller panes; 6-over-6 and 2-over-2 double-hung sashes are typical. The first and second story openings shall have a strong relationship to one another. Alterations to window or door size or shape may be permitted on Landmark buildings only to the extent that such a change would bring about greater historical accuracy.
- (2) Window and door openings shall occupy about 25% to 30% of the front elevation of a residential building.
- (3) Window emphasis shall generally be vertical with the height of a window being approximately two times its width. The spacing between windows in historic structures is usually between one and two times the width of the window. If spacing is less than one times the width, shutters shall not be used. Shutters shall be constructed of

wood and be proportioned as if they would cover the entire window opening if closed. They shall be operable or mounted on hinges.

- (4) Windows may be fixed or operable window openings in masonry buildings shall be configured with traditional components: sill, lintel, and trim.

Windows shall be glazed in clear glass rather than tinted glass. Narrow-line windows are prohibited. Snap on grills or grill in airspace are prohibited. All-windows shall be made of wood.

In addition, the following criteria apply:

- (a) Landmark Property. Windows shall be repaired when possible. When replacement is necessary, the replacement shall be an all-wood window. If the original window was divided into smaller panes, then the replacement must mimic that pattern and it shall have true divided lights. If the new window is replacing a window that was not original to the building, the new replacement shall match the original window. On additions, simulated divided light sashes may be used.

- (b) Contributing Property. Windows shall be repaired when possible. When replacement is necessary, the replacement shall be an all-wood window. Simulated divided light sashes may be used.

- (c) Design-Consistent Property and New Construction. Simulated divided light sashes shall be used except as provided in d(1) below. Extruded aluminum-clad or vinyl-clad wood windows may be permitted, if appropriate.

- (d) Non-Contributing Property. Aluminum-clad or vinyl-clad wood windows may be permitted, if appropriate.

- (1) Display windows on the first story of commercial buildings, may be larger than those typical of residential buildings and are not required to be subdivided. The first story windows shall show symmetry and proportion to the building and relate to

the windows of the second floor. The length of a hypothetical rectangle that encompasses all first story windows and doors shall be the same length as that of a rectangle, which encompasses all second story windows. Commercial buildings may have a greater amount of building elevation occupied by windows and doors than residential buildings.

- (2) The main entry of a building shall preferably face the street. The entry of a corner building may face the street or be at an angle to the street. Entries may be flush with the building or recessed.

- (3) For residential and commercial buildings, doors shall be constructed of wood and be paneled, either solid or with glass panes. Door trim shall be compatible with window trim. Transoms above doors with glass panes and side lights may be permitted. On residential buildings, doors shall be about the same width as the windows. On commercial buildings, rear service doors may be wider than windows and may be constructed of metal. On commercial buildings, four or six paneled steel doors will be allowed when required by the Fire Code.

- (4) Exterior storm/screen windows with a wood frame or painted aluminum may be allowed as an alternative to replacing existing sash or on a new unclad sash.

(d) Design Review Criterion #4 MATERIALS: Ensure the use of construction materials appropriate to the District, the era and the architecture of the building.

- (1) Appropriate construction materials include, brick, stone, natural wood clapboard, wood board and batten, wood shingles, and traditionally applied stucco. Vinyl, aluminum, and steel siding and exterior insulation and finishing system (EIFS, aka synthetic-stucco) are prohibited. Smooth fiber-cement siding and trim may be used on new

construction, as a replacement on non-Landmark Property, and on additions to any property including Landmark Property. Materials for windows and doors are covered in Design Review Criterion # 3.

- (2) Brick masonry in new buildings or additions to existing buildings shall have brick and mortar joints similar in color, size, and texture to historic examples in the district. The preferred color for brick is in the red-orange range. Variations in color may be used to reduce the mass of a large building. The color should be uniform rather than mottled or speckled. Unpainted brick is preferred, unless the building has been previously painted.
- (3) Clapboard siding shall run horizontally, and shall have appropriate lap exposure.
- (4) Slate, copper, wood, or standing seam metal roofs are preferred. Asphalt-fiberglass shingles may also be used but shall be uniform in color. When replacing roofing, every effort shall be made to duplicate the original roofing material.

**(e) Design Review Criterion #5
COLORS: Use paint colors appropriate to the District.**

Paint serves two purposes—aesthetic enhancement and protection against deterioration. Paint colors shall relate to the style and period of the building and to the traditional character of the District. In general paint colors for buildings shall be muted rather than vivid.

In the early 19th century, white and light neutral colors were favored; then in the late 19th century colors darkened and palettes broadened, until the early 20th century brought a return to white and light colors. Greek Revival homes typically had white exteriors and dark green or black doors and shutters, while Victorian dwellings were enhanced by rich color treatments such as browns, olives, blues, ochres, and grays with contrasting

colors for trim and decorative details.

- (1) The simpler the building design, the fewer colors should be used on it, with a maximum of three different colors on a building unless appropriate to the architecture of that era. The body of a building should be painted all one color. However, variations in paint color may be used to reduce the mass of a large building.
- (2) The body and trim of the building shall be painted different, but complementary colors. However, for late 19th century buildings, trim may be painted the same color as the body in a lighter or darker shade.
- (3) Select colors that complement a building’s materials —whether brick, wood, or stone—as well as the colors of abutting buildings.
- (4) The City maintains a color chart of historic colors that should be used as a guide in picking appropriate colors. For guidelines on colors for permanent and sandwich board signs, see Design Review Criteria #7.
- (5) A flat or satin finish shall be used on the body, and semi-gloss on windows and trim.

**(f) Design Review Criterion #6
LANDSCAPE: Use landscape elements and street furniture appropriate to the District.**

- (1) Improvements in the public right of way shall conform to the City of Montgomery’s Heritage District Streetscape Plan. Improvements shall also conform to City of Montgomery Ordinance #10, 2007 regarding street furniture and furnishings.
- (2) The materials to be used for fences, non-structural walls, railings, and trellises are strictly limited to natural materials or painted iron. Vinyl fences are prohibited.

The materials to be used for steps, stairs, or railings are limited to wood, concrete, stone, or brick.

(g) Design Review Criterion #7 SIGNS: Use sign design appropriate to the District.

- (1) Signs must comply with the regulations in Chapter 151.30.
- (2) Signs shall respect the overall architectural composition of the building and its scale, while not overwhelming the façade.
- (3) Sign colors shall be harmonious with the building's materials and colors. Sign colors shall relate to the style and period of the building and to the traditional character of the District. In general sign colors should be muted rather than vivid.
- (4) Corporate identity colors or logos may be permitted and shall be used with restraint.
- (5) Sign letter styles and heights shall be appropriate to the District and respect the overall composition of the sign.
- (6) Wall signs shall be affixed on a continuous, flat, vertical, opaque surface and cannot project more than 6" from the building surface. Signs shall not cover architectural features
- (7) Wall signs shall not extend higher than the bottom of the sill of the second story window, or above the lowest point of the roof, or over 25' above grade whichever is lowest. Wall signs shall be at least 6" from the lintel, sill or other trim of the windows above and below.
- (8) No more than one right angle sign, projecting not more than 4', is allowed for each business establishment. The bottom of the sign shall be at least seven feet above the ground level (sidewalk). The top of the sign shall not extend higher than the bottom of the sills of the second story window, the lowest point of the roof, or 25' above grade, whichever is lowest.
- (9) Window signs shall only be applied directly to the inside surface of the

window glass. The letters shall be 4" or less and symbols shall not be larger than 8".

- (10) Signs shall have a simple design, and shall not have more than three lines of letters.
- (11) Signs may be externally illuminated. Neon lighting, internally illuminated, and backlit signs are prohibited. Ground signs shall include the street address.
- (12) Sign materials may be of wood, cast metal, natural stone, brick, or glass, with painted faces or letters. Other materials may be permitted if appropriate. Plastic and foam signs are prohibited. Vinyl or plastic letters may be approved, if appropriate.

(h) Design Review Criterion #8 ACCESSORY STRUCTURES: Ensure that accessory structures enhance, yet be subordinate to the primary structure in size, scale, and architectural detail.

- (1) All accessory structures shall be limited to the rear yard and shall not exceed 1 1/2 stories in height. Roof style shall be limited to either gable or shed roof designs. Flat or gambrel roofs are not allowed.
- (2) Garage doors shall be made only of wood. Other materials may be permitted if appropriate. Separate doors must be used for each bay. Exceptions may be made for the replacement of existing, non-conforming garage doors.
- (3) Decks, patios and porches shall be compatible with the era of the building.
 - (i) For Landmark and Contributing buildings, masonry and concrete patios directly on grade are permissible. Porches are permitted if they are compatible in design to the rest of the building and the era. The deck of new porches shall not be more than four feet

above grade. Porches in conjunction with walk-out basements are discouraged. Above-grade decks are not permitted as additions to Landmark and Contributing buildings.

(ii) For other buildings, masonry and concrete patios directly on grade are encouraged. Walk-out basements or porches are discouraged. Decks are permitted, but shall be painted or stained (not clear) and be compatible with the era of the building. Vinyl is prohibited but other materials may be considered if appropriate.

(4) Arbors, trellises, fences and other accessory structures shall be of a natural material. If they are made of wood, they must be painted or stained (not clear). They shall be designed to be compatible with the era of the building. Vinyl is prohibited but other materials may be considered if appropriate.

(i) Design Review Criterion #9 LIGHTING: Use exterior lighting appropriate to the District in type, design, location, and quantity.

(1) Lighting shall be used in a very limited manner and only to highlight architectural details on a building, illuminate a sign, or illuminate walkways and/or parking areas.

(2) The use of incandescent, natural gas, or halogen lights is allowed, but colored, flashing or neon lights are prohibited. Compact fluorescents and LED lights may be used but only if enclosed in a light fixture. Other lights may be considered if appropriate. Lighting must also comply with other sections of this code. See Design Review Criteria #7 for allowable lighting for signage. Design Review Criteria #7 for allowable lighting for signage.

(3) Lighting must not exceed the standards set in §151.1213(b) and 151.3212(c).

§151.1406 REVIEW PROCEDURES.

(a) The Zoning Administrator, subject to approval by the Landmarks Commission, shall adopt certain rules and regulations setting forth the color guidelines, roof materials, building materials, and other construction materials acceptable in the Heritage Overlay District for the enforcement of this Code.

(b) All new and rehabilitation projects in the Heritage Overlay District shall be subject to the development plan review procedures set forth in Chapter 150.14.

(c) Applications for exterior changes to property in the Heritage Overlay District that is neither a listed landmark nor subject to development plan review shall comply with the procedures set forth in § 150.1207.

§151.1407 REGULATIONS FOR FURNITURE/FURNISHINGS.

(A) Definitions. When in this section, unless the context otherwise requires, the following terms shall have the following meanings:

(1) **CERTIFICATE HOLDER.** The holder of a certificate of compliance issued by the Zoning Administrator in accordance with the provisions of this section. A certificate holder is responsible for the installation and maintenance of street furnishings encompassed by any certificate of compliance issued pursuant to the provisions of this section and for compliance with all provisions contained herein.

(2) **CERTIFICATE OF COMPLIANCE.** The certificate of compliance issued by the Zoning Administrator to the certificate holder in accordance with the provisions of this section.

(3) **NEWSRACK.** Any type of self-service device for the vending or free distribution of newspapers, advertisements, or periodicals.

(4) **OPERATOR.** Any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and

the like, who either own, operate or otherwise are in control of a newsrack.

(5) **PROPERTY OWNER.** A natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like, who either own, lease or rent real property within the Heritage Overlay District.

(6) **PUBLIC WAY.** Any sidewalk or streetscape area dedicated to public use, public plaza open and dedicated to public use, public highway, public street or public alleyway.

(7) **STREET FURNISHINGS.** Street furniture including but not limited to benches, tables, chairs, table umbrellas, planters, waste containers, newsracks, mailboxes and similar personal property used to vend a product or for aesthetic display.

(8) **ZONING ADMINISTRATOR.** The Zoning Administrator of the City of Montgomery or such person as said Zoning Administrator may from time to time designate.

(B) Development standards.

(1) All street furnishings in the Heritage Overlay District which are maintained, erected, placed or situated by an owner or operator in a public way or which are placed upon private property, but are open to and visible from any public way shall comply with the standards of this section.

(2) The Zoning Administrator, subject to approval of the Landmarks Commission, shall adopt certain rules and regulations setting forth the palette of colors and acceptable materials for all street furnishings in the Heritage Overlay District for the enforcement of this Code.

(C) Any street furnishings placed within the Heritage District after the effective date of this Code must comply with the design criteria and placement restrictions as set forth within this section. Any street furnishings in place on the effective date of this section must be either removed or brought into compliance with the terms of this section within 60 days after

written notice of nonconformity is delivered to the owner or operator by the Zoning Administrator.

(D) (1) Certificate of compliance.

(a) Within the Heritage Overlay District, no person shall affix, erect, place or maintain street furnishings in or on any part of the public way or upon private property in any area which fronts upon a public sidewalk, street or alleyway and is visible to such public sidewalk, street or alleyway without first obtaining a certificate of compliance from the Zoning Administrator in accordance with the provisions of this section. Street furnishings placed on private property which are placed within a solid material walled courtyard which are not visible to such public sidewalk, street or alleyway are exempt from the provisions of this section requiring a certificate of compliance.

(b) The certificate of compliance must be renewed annually by application to the Zoning Administrator.

(2) Application for certificate of compliance.

(a) An application form shall be prepared by the Zoning Administrator and shall require the following detail:

1. The name, address and telephone number of the applicant who is the owner/operator or other person who is the principal person responsible for the street furnishings;

2. The name, address and telephone number of a natural person (if different from the applicant) who the city may notify and/or contact at any time concerning the applicant's street furnishings. This person would be responsible for receiving complaints and notices of violations when the certificate of compliance is issued and for providing information relating to the application during the application process;

3. A specific written description of the type, style and quantity of street furnishings proposed to be located and the proposed location for such street furnishings; and

4. If street furnishings are placed on or within a public way, a certificate of insurance naming the city as an additional insured in an amount not less than \$1,000,000 sufficient to indemnify the city and hold it harmless from any and all claims or judgments for personal and bodily injury, including death or property damage, and from costs and expenses to which the city may be subjected or which it may suffer or incur by reason of the design, placement, installation, operation or maintenance of the applicant's street furnishings. Reasonable evidence of self-insurance coverage may be substituted by the applicant for the certificate of insurance. Insurance under this section shall run continuously while the street furnishings are in place within the city public ways, and any termination or lapse of such insurance shall be a violation of this section.

(3) Issuance of a certificate of compliance. Upon a finding by the Zoning Administrator that the applicant is in compliance with the provisions of this section, the Zoning Administrator shall issue a certificate of compliance for installation of street furnishings by the applicant. The Zoning Administrator shall issue a partial certificate of compliance upon a finding that some of the proposed street furnishings locations are in compliance with the provisions of this section. Issuance of a certificate of compliance or partial certificate of compliance shall designate the applicant to be the certificate holder. The Zoning Administrator shall issue a certificate of compliance within ten business days of the Zoning Administrator's receipt of a completed application. Proposed locations within the public way shall be approved on a first come/first serve basis by the Zoning Administrator.

(4) Denial of certificate of compliance. If an application for a street furnishings location is denied, or if the type and style of the street furnishings is denied, the Zoning Administrator shall notify the applicant in writing within ten business days of the receipt of the completed application. The Zoning

Administrator shall state the specific reason for denial. An applicant who has been denied a certificate of compliance pursuant to this section may appeal such denial within 30 days of the date of the written denial by filing a copy of an appeal with the Zoning Administrator. Such appeal shall be heard by the City Manager, or his/her designee, within ten business days of the filing of the appeal. A final decision on the appeal shall be sent to the applicant within five days of the hearing.

(5) Abatement.

(a) The Zoning Administrator reserves the right to order, by written notice to the certificate holder, that non-complying street furnishings be removed from an approved location either temporarily or permanently.

(b) If the certificate holder fails to remove street furnishings from a location within three business days after receipt of a notice by the Zoning Administrator, the Zoning Administrator, or his/her designee, may summarily remove such street furnishings to storage at a place designed by the city. Such street furnishings may then be returned to the certificate holder upon a certificate holder paying the cost of storage and the reasonable cost to remove such street furnishings to storage, which reasonable removal cost shall not exceed \$100. If a certificate holder fails to pay such storage and removal fees or fails to claim such street furnishings from storage within 60 days after receipt of a notice from the Zoning Administrator that such property has been removed to storage, then the city may dispose of such street furnishings as the city deems appropriate. The city shall then be entitled to retain any monies received from the sale of such street furnishings as abandoned property, and no portion of such proceeds from the sale need be accounted to or paid to the certificate holder. If the Zoning Administrator determines that there is an unreasonable and imminent risk of danger to person or property by non-complying street furnishings remaining at a location or in a condition of disrepair at an approved location,

the Zoning Administrator may summarily remove such furnishings without advanced written notice to the certificate holder.

(E) Standards. All street furnishings shall be maintained in a neat and clean condition and in good repair at all time. Specifically, but without limiting the generality of the foregoing, street furnishings shall be serviced and maintained so that:

- (1) It is reasonably free of dirt and grease;
- (2) It is reasonably free of chipped, faded, peeling and/or cracked paint in any visible painted areas;
- (3) It is reasonably free of rust and corrosion in visible unpainted metal areas;
- (4) Any clear, plastic or glass parts of any display area of a newsrack are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
- (5) The structural parts of any street furnishings are not broken or unduly misshapen;
- (6) There shall be no advertisement attached to, posted upon, or incorporated within any street furnishings except:
 - (a) Umbrellas affixed to tables within the street furnishings authorized in the District may display the name of the business or logo of the business on site where the street furnishings are placed. Provided, however, such name may not be printed in letters larger than four inches in height and they must be displayed only on the drop flaps of the umbrella, may not be displayed more than four times.
 - (b) Newsracks may have a clear display area not to exceed one square foot. Lettering listing the name of the publication is limited to one inch in height and must be displayed only on the front of the newsrack.
- (7) All newsracks shall be equipped with a coin return mechanism to permit a person

using the machine to secure an immediate refund in the event he or she is unable to receive the publication paid for. The coin return mechanism shall be maintained in good working order. Newsracks dispensing free publications are exempt from this division;

(8) Each newsrack shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsrack, a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction or to secure a refund in the event of a malfunction of the coin return mechanism, or to give the notices provided within this section.

(F) If appropriate, the City Manager is authorized to place complying street furnishings in and upon city owned property, or within the city right-of-way, of any public street, alleyway or sidewalk. Such public street furnishings shall include, but not be limited to, flowerpots and planters, waste containers, tables, chairs, umbrellas, and newsracks. If the City Manager elects to place or construct publicly owned newsracks within the District, the City Manager, at a reasonable fee, may allow such newsracks to be used in lieu of the private placement of newsracks in compliance with these regulations.

(Ord. 10-2007, passed 8-1-07)

**Chapter 151.15
Old Montgomery Gateway District Regulations**

§ 151.1501	Purpose.	§ 151.1513	Scale and Massing.
§ 151.1502	Applicability of District.	§ 151.1514	Architectural Details.
§ 151.1503	Use Regulations.	§ 151.1515	Exterior Construction Materials.
§ 151.1504	Development Standards.	§ 151.1516	Colors.
§ 151.1505	Residential Lot Requirements.	§ 151.1517	Variation of Materials And Colors in Facades.
§ 151.1506	Site of 2 Acres or More.	§ 151.1518	Signage.
§ 151.1507	Site Layout Criteria.	§ 151.1519	Lighting.
§ 151.1508	Building Setbacks.	§ 151.1520	Landscaping.
§ 151.1509	Site Layout and Building Configuration.	§ 151.1521	Public Facilities.
§ 151.1510	Pedestrian and Vehicular Access and Circulation.	§ 151.1522	Definitions.
§ 151.1511	Parking.	§ 151.1523	Review Procedure.
§ 151.1512	Building Design.		

§151.1501 PURPOSE.

The Old Montgomery Gateway District (OMG) is established in order to impose specific design criteria for both rehabilitation and new construction projects within the Old Montgomery Gateway District of Montgomery. Therefore the purposes of this Chapter are to:

- (a) Ensure that new development in the Old Montgomery Gateway District shall conform to the City’s general plans for the physical development of this district as embodied in the City’s Gateway Area Plan.
- (b) Guide development and redevelopment in the Old Montgomery Gateway District to protect and enhance the City’s image.
- (c) Ensure that new development and redevelopment respects the City’s historic qualities and resources through thoughtful and compatible design.
- (d) Provide the basis for consistency and objective decision making by

providing criteria and a review process to be used by the Zoning Administrator, Landmarks Commission, Planning Commission and City Council when evaluating proposed development.

- (e) Provide standards for property owners, architects and contractors to aid in the preparation of appropriate plans.
- (f) Increase public awareness of the value of good design in the gateway into the City.
- (g) To create a more cohesive development pattern and density in the City’s OMG and Core.
- (h) To strengthen the current historic district by promoting redevelopment in the OMG that enhances the visual and economic vitality of the downtown.

§151.1502 APPLICABILITY OF DISTRICT.

All properties designated OMG-Old Montgomery Gateway District on the official zoning map of the City of Montgomery shall be subject to the regulations of this chapter.

§151.1503 USE REGULATIONS.

All uses in the Old Montgomery Gateway District shall be governed as listed in § 151.1203 Schedule of Permitted Uses.

§151.1504 DEVELOPMENT STANDARDS.

All lots, buildings and structures in the Old Montgomery Gateway District shall comply with the standards set forth in this Chapter.

§151.1505 RESIDENTIAL LOT REQUIREMENTS.

Lot requirements for all residential uses as permitted in the Old Montgomery Gateway District shall be regulated as set forth in § 151.1006.

§151.1506 SITES OF 2 ACRES OR MORE.

(a) Cohesive, multi-structure developments are desirable and are strongly encouraged in the Old Montgomery Gateway District to enhance the existing urban features of the adjacent Heritage District and to present a more coordinated Gateway to the City. Any site within the Old Montgomery Gateway District which is equal to or greater than two acres shall be required to be developed with multiple-structures, and a mix of uses. Lots of 2 or more acres recorded as of the date of adoption of this ordinance may not be subdivided into smaller lots to avoid this regulation.

(b) After a Final Site Plan has been approved in accordance with Chapter 150.14, an applicant may subdivide the total development into separate parcels for tax billing purposes. The subdivided parcels shall remain subject to the approved Development Plan and shall not be considered as non-conforming lots or uses when developed under the approved Plan. Any subsequent re-development of

the subdivided lots must be consistent with the approved Site Plan and shall be considered as a modification to the approved plan subject to the review and approval process of Chapter 150.14, unless such modification is exempted as provided therein.

(c) When feasible, multiple smaller lots (less than 2 acres) are encouraged to be consolidated and redeveloped under a single plan in a manner that is consistent with the standards of the OMG for multiple building developments.

§151.1507 SITE LAYOUT CRITERIA.

The layout of principal buildings, accessory structures and parking areas along Montgomery Road and Main Street are a primary identifying feature of the City. The Old Montgomery Gateway District is the entrance into an existing urbanized area that features a strongly defined street wall which creates an attractive, pedestrian street environment. The street wall is defined by buildings which are set close to the street. Creating a strongly defined street wall in the Old Montgomery Gateway District will improve the visual appearance and distinguish the City from the more suburban areas to the south. Standards for single structure developments and multi-building developments are presented as follows:

§151.1508 BUILDING SETBACKS.

The setbacks for buildings in the OMG shall be determined as follows:

(a) The use of a parking structure for setback purposes shall be determined as follows: A parking structure shall be considered non-residential unless residential and only residential uses are built above the parking structure at the point of measure.

(b) Front Yard Setback. Front yard setbacks in the OMG are encouraged to create a street wall and buildings should be set a consistent distance from the right-of-way. The following regulations apply to front yard setbacks:

- (1) The maximum front yard setback for buildings shall be 10 feet from the right-of-way.
- (2) To meet the required minimum 10 foot setback, a building’s façade must meet the site layout and building configuration requirements of § 151.1509 (a) (1).
- (3) For panhandle lots see §151.1509(c) (2).
- (4) Exception for Upper Stories. The facades of buildings above the required minimum height established in § 151.1513 (a) (1) may be set back farther than 10 feet from the right-of- way.
- (5) Exception for Multiple-Buildings. An adequate number of buildings and front façades on each site must meet the maximum required setback of 10 feet from the right-of-way to create a consistent street wall along the frontage of the site in conformance with §151.1509. However, if the frontage of the site is designed with buildings at the setback line, the City may allow additional buildings on the site to exceed this setback if they find that the development meets the other standards of this Chapter and accomplishes the purpose of this district.

(c) Side Yard Setbacks. Side yard setbacks for development in the OMG shall be determined as follows:

- (1) Buildings shall be set back a minimum of 5 feet from the side lot

line when adjacent to any non-residential use outside of the OMG.

- (2) When adjacent to a residential use outside of the OMG a building must be setback a minimum of 15 feet from the side lot line.
- (3) Zero side lot line structures with a shared firewall may be permitted in a development under initial, common ownership.
- (d) Rear Yard Setbacks. Rear yard setbacks for development in the OMG shall be determined as follows:
 - (1) Commercial or non-residential structures shall be setback a minimum of 45 feet from the rear lot line or boundary line of adjacent residential properties outside of the OMG district.
 - (2) Commercial structures shall be setback 15 feet from the rear property line when adjacent to a lot within the OMG district or other non-residential district or use.
 - (3) Residential structures shall be located no closer than eight feet or one-half the height of the building whichever is greater, to the rear project boundary line of the development.

§151.1509 SITE LAYOUT AND BUILDING CONFIGURATION.

(a) General Site Layout. Along Montgomery Road and Main Street Frontages the general site layout shall conform to the following standards.

- (1) A minimum of 60% of a development’s frontage on either Montgomery Road or Main Street must be occupied by building frontage, and an additional 10% may be occupied by building frontage or a wall as specified

below, which is located no further than 10 feet from the front property line. The building wall shall be an extension of the principal or accessory building(s). The City may allow up to 50% of a building’s surface to be setback further than 10 feet to create façade articulation or provided a plaza or another useful outdoor pedestrian space along the frontage.

- (2) On existing panhandle lots the building may be setback more than 10 feet from the public right-of-way when the lot has less than 25 feet of frontage along Montgomery Road or Main Street. The building must setback a minimum of 20 feet from the rear property line of the parcel in front of the panhandle lot.
- (3) Walls shall be constructed of solid masonry and shall have a height not less than 3 feet nor greater than 8 feet, not including ornamentation or other features.
- (4) The remaining 30% of a development’s frontage on either Montgomery Road or Main Street may be used for necessary vehicle and pedestrian access ways.
- (b) Parking. Parking lots or parking structures shall be regulated as follows:
 - (1) Parking Lots shall meet the setback standards as established in § 151.1207
 - (2) Parking Structures shall not be located in the front yard and shall meet the side and rear project boundary setbacks established for buildings in § 151.1508.
 - (3) Parking lots and parking structures shall be buffered or screened at a

minimum as required in this Code per §151.3408.

- (c) In multi-building developments, a parking lot may be located between a rear building and a building fronting on Montgomery Road or Main Street.
- (d) Building Coverage. Building Coverage in the OMG shall be regulated as follows:
 - (1) Single Building Developments. A single building fronting on Montgomery Road or Main Street shall not have a footprint which exceeds 15,000 square feet.
 - (2) Pan Handle Lots. Any building on a pan handle lot with less than 25 feet of frontage along Montgomery Road or Main Street shall be treated as a rear building for coverage purposes.
 - (3) Multiple Building Development. When included in a multiple-building development on a site in excess of 2 acres a single building may have a footprint in excess of 15,000 square feet if the City finds that it meets the following regulations:
 - i. Under no circumstances may a building’s footprint exceed 30,000 square feet;
 - ii. The building is part of a Multiple-Building Development;
 - iii. The structure is setback from Montgomery Road or Main Street a minimum of 200 feet;
 - iv. Adequate parking for the building’s use as specified in §151.3204 can be accommodated in whole or in part in on-site structured parking, which is integrated into the development design;

- v. Off-street loading areas are provided for the building in accordance with §151.3211;
 - vi. The building and required parking are screened from the public right-of-way by smaller buildings that address the street and meet the minimum 10 foot setback and the standards of § 151.1508;
 - vii. The loading, parking, and trash dumpsters are adequately screened from adjacent residential uses; and
 - viii. The building meets all other building design standards as specified by this chapter.
- (e) Loading and Service Areas. Loading and service areas shall be located and designed in such a way as to minimize visual and noise impact on adjacent residential uses. The use of solid walls and buffer landscaping are encouraged to reduce the visual and noise impact of loading and service areas from adjacent rights-of-way and residential areas.

§151.1510 PEDESTRIAN AND VEHICULAR ACCESS AND CIRCULATION.

Safe, efficient, and convenient circulation and access to and between developments should be provided for both pedestrians and vehicular traffic. By creating a safe continuous network of pedestrian walkways within the Old Montgomery Gateway District development and adjacent Heritage District development, pedestrians will feel more inclined to safely walk (rather than drive) between stores. A pedestrian network that offers clear circulation paths from the parking areas to building entries creates a friendlier, more inviting image.

- (a) Pedestrian Access and Circulation. Pedestrian facilities shall be designed to meet the following standards:
- (1) Sites that are more than 2 acres shall emphasize pedestrian orientation by creating attractive pedestrian spaces that are landscaped and include other appropriate elements to facilitate pedestrian activity. Efforts should be made to incorporate public open spaces into the design of the development.
 - (2) All commercial developments shall provide attractive well marked pedestrian links between parking and buildings. The connections shall be clearly marked to provide safe access across traffic lanes and landscaped areas. Such walkways shall utilize decorative paving at key locations.
 - (3) All commercial buildings shall be public accessible via a path or walkway from a public sidewalk.
 - (4) Any sidewalk or walkway shall be designed to connect to adjacent walkways of either existing or future development.
 - (5) All redevelopment along Montgomery Road and Main Street in the OMG must comply with the streetscaping master plan for the Heritage District. New public walkways, connecting sidewalks and new rights-of-way should incorporate the standards from the Heritage District Streetscaping Master Plan.
 - (6) Parking area design shall include provisions for pedestrian access from parking areas to building entrances.

(b) Vehicular Access and Circulation. Vehicular access and circulation shall be designed to meet the following standards:

(1) Primary Vehicle Entrances. The number and location of vehicle entrances to a commercial development shall be consistent with the City Access Management Standards Chapter 94.18. The specific locations of primary vehicle entrances are subject to review by the City Engineer and the approval of the City and will be based on the following factors to promote good traffic management practices:

- i. A site shall not be separated into additional tracts or plats to artificially allow additional access points.
- ii. The development shall minimize the number of curb cuts with shared access being preferred.
- iii. Provide adequate improvements to the right-of-way to handle increases in traffic generated by the development. These improvements may include but are not limited to, turn lanes and traffic control devices.
- iv. Where possible, access points should align with previously-approved or constructed access points on the opposite side of the street to reduce conflict points.

(2) Internal Vehicle Circulation. Safe and efficient internal circulation shall be provided. Where possible internal vehicle circulation should be designed as follows:

- i. Parking lots should be designed with a hierarchy of circulation: major access drives with no parking; major circulation drives with limited parking, and then

parking aisles for direct access to parking spaces. Smaller developments may need to combine components of the hierarchy.

- ii. Main drive aisles should be continuous and connect to the main entrance to the development site.
- iii. Internal driveways or parking aisles should intersect at angles of between 80 and 100 degrees, with 90 degrees being preferred.
- iv. Internal driveways or aisles that are intersected by crossing traffic should either have their centerlines aligned or be offset by at least 60 feet.

(3) On-Site Truck Traffic/Loading and Circulation. Every development is required to provide on site loading and delivery facilities separate from customer parking and pedestrian areas.

- i. Truck circulation paths shall be designed with adequate curve radii and maneuvering room.
- ii. Loading and service areas shall be located in such a way that trucks accessing the site should not need to back into the site from a public right-of-way, nor back out of the site onto the public right-of-way.

iii. Loading areas must be large enough that trucks do not partially or fully obstruct traffic flow on Montgomery Road, Main Street or side streets during loading activities.

(4) Connections to Adjacent Non-Residential Uses. To the maximum extent feasible vehicular and access connections shall be provided

between adjacent non-residential development parcels.

§151.1511 PARKING

Parking in an urban setting is often difficult and in order to promote an urban setting, surface parking and structured parking shall be designed in a way to reduce its visual impact from Montgomery Road and Main Street.

(a) Multi-Building Developments To promote an urban density parking should be provided as follows in Multi-Building Developments:

- (1) Structured parking is encouraged for 50% of the required parking on sites with multi-building developments.
- (2) The City may, at its discretion permit a reduction in the number of off-street parking spaces required for a development to as much as 50% of the required spaces per § 151.3204.

(b) Surface Parking. Surface parking lots shall be designed in accordance with Chapter 151.32 Off-Street Parking and Loading Regulations.

- (1) Surface parking shall be limited to no more than 35% of the site area.
- (2) Adequate screening and interior landscaping shall be provided for surface-parking as specified in § 151.3408 (Screening and Landscaping of Parking Lots).

(c) Parking Structures. Parking structures should be encouraged to be located in the interior of the site to reduce the visual impact from Montgomery Road and Main Street. Structured parking is prohibited along Montgomery Road or Main Street.

§151.1512 BUILDING DESIGN

The architecture and general design of the buildings in the Old Montgomery Gateway District will be the strongest feature in creating an image for the Gateway into the City. Building design for the Gateway should be of a high quality with attention to the creation of a human scale environment that ties into the historic architectural character of the Heritage District.

§151.1513 SCALE AND MASSING

The relationship of a building’s height to its apparent width is a major contributing factor to the overall character of the Old Montgomery Gateway District. Buildings in the Old Montgomery Gateway District should respect the historic architectural character of the adjacent Heritage District in scale and massing. The following standards shall apply to all buildings in the Old Montgomery Gateway District.

(a) Building Height. The Height of all buildings in the Old Montgomery Gateway District shall meet the following standards:

- (1) The minimum building height for all buildings shall be two stories for the front façade along Montgomery Road and Main Street or on any interior street (existing or proposed). All other buildings shall have the appearance of a minimum of two stories.
- (2) The maximum building height shall not exceed 45 feet as measured from the grade line to the gutter.
- (3) A building’s vertical and horizontal dimensions shall be in proportion to one another without over emphasis of either dimension. Horizontally long buildings shall be visually broken up through the use of recesses or setback variations, to

cause the façade to appear as a series of proportionally correct masses. The building’s articulation should help establish a human scale and provide visual rhythm and interest.

§151.1514 ARCHITECTURAL DETAILS

To create a more interesting and inviting environment, all buildings shall include architectural details, including but not limited to cornices, and window and door trim. Buildings shall be designed with a distinct architectural style that respects the historic character of the Heritage District but adequately accommodates the intended modern uses. When authentic architectural details such as windows and doors are not feasible simulated openings may be approved.

(a) Roof Type. The roof types of buildings in the OMG shall be designed in conformance with the following regulations:

- (1) For approximately every front 25 feet of building façade a variation of roof type is encouraged to reduce visual monotony and assist in development of a human scale environment.
- (2) Gabled roofs are encouraged; however, other roof types may be approved by the City on a case by case basis.
- (3) When gabled roofs are used the design of the roof pitch may vary, but should not be less than ¼ of the building height as measured from the grade line to the gutter.
- (4) The appearance of flat roofs is prohibited. The use of decorative cornices and parapet roof lines are encouraged to reduce the appearance of a flat roof and screen rooftop equipment.

(b) Building Entrances. The building entrances in the OMG shall be designed in conformance with the following regulations:

- (1) When a commercial building has frontage on Montgomery Road or Main Street, the building entrances should be encouraged to face onto Montgomery Road or Main Street when feasible.
- (2) When a residential building has frontage on Montgomery Road or Main Street, the first floor entrances should be located facing onto Montgomery Road or Main Street when feasible. Access to upper stories from Main Street and Montgomery Roads is strongly encouraged.
- (3) When a new road is proposed for interior circulation and meets the streetscaping requirements as detailed in the City’s Streetscaping plan, buildings may be oriented to face on to these streets and the entrance may also be oriented to these streets.
- (4) In all cases the main entrance of the building shall be easily identifiable, and should provide an introductory statement for a building using architectural articulation or landscaping or a combination of both.
- (5) Entrances should be designed to allow individual business to present a clear image without compromising the sense of unity of the façade or development.

(c) Windows. Windows in the OMG District shall be designed in conformance with the following regulations:

- (1) The shape and configuration of windows for buildings in the Old Montgomery Gateway District

should maintain a consistent rhythm and pattern throughout the development.

- (2) A window's proportions should generally be vertical with the height being approximately two times the width of the window, however, display windows in commercial structures may be larger than those typical in a residential structure and do not need to have this exact proportion.
- (3) Generally, windows should be subdivided and separated by mullions. Large expanses of glass should be used in limited amounts as storefront display windows, and should relate to the architectural style of the buildings. Large undivided display windows or plate glass windows are appropriate only on the ground floor for display purposes.
- (4) Window and door openings on the ground floor of a commercial building should occupy no less than 50% of the building's façade length on any façade facing Montgomery Road, or another public street. Upper story window and door openings should be proportioned to the first floor as in item 5 below.
- (5) Windows in all structures shall exhibit symmetry and proportion to the building. To ensure that the windows on the first floor relate properly to windows on the upper floors, the length of a hypothetical rectangle that encompasses all first story windows and doors must be the same length as that of a rectangle that encompasses all second story windows.
- (6) Windows should be detailed with architectural elements such as projecting sills, molded surrounds

and/or lintels. Windows shall be constructed of clear glazing and tinted glazing shall not be used.

- (7) Vinyl windows are prohibited. Extruded aluminum-clad or vinyl-clad wood windows may be permitted, if appropriate.

§151.1515 EXTERIOR CONSTRUCTION MATERIALS

The character of the Old Montgomery Gateway District is enhanced by the use of quality building materials that reflect the desired image of the City of Montgomery. The following standards apply to the exterior of all buildings in the Old Montgomery Gateway District.

(a) Permitted Materials. The use of exterior building and finishing materials in the OMG shall be in conformance with the following regulations:

- (1) Primary Materials-Buildings in the Gateway shall have a primary exterior covering of brick, stone, natural wood clapboard, wood board and batten, wood shingles or modern manufactured materials that create the appearance of the materials listed above except as prohibited here in.
 - i. The color of brick is encouraged to be in the red orange range. The color should be uniform rather than being mottled or speckled.
- (2) Accent Materials-Buildings in the OMG may incorporate any of the above permitted primary materials as an accent. Exterior insulated finish systems, and decorative concrete masonry units may be used on a building in the gateway as an accent that comprises no more than 15 % per side of the buildings exterior wall surface;

(3) Other materials that are not listed as prohibited may be approved by the City on a case by case basis as a primary or accent building material.

(b) Prohibited Materials. Exterior covering materials that are prohibited include vinyl, aluminum or steel siding, standard concrete masonry units or tilt-up concrete.

§151.1516 COLORS

(a) Permitted Colors. The base colors used on buildings in the Old Montgomery Gateway District should be the natural color of the material in the case of brick or stone or of a neutral, muted pallet. Brighter, more vivid colors should be reserved for limited use as trim or accent. Permitted colors may be further regulated as established in §151.15023(a).

(b) Prohibited Colors. No fluorescent, reflective, metallic or neon colors shall be used in the construction of a building in the Old Montgomery Gateway District.

§151.1517 VARIATION OF MATERIALS AND COLORS ON FACADES.

Variation of materials and colors on facades is permissible, provided the variation enhances the human scale of the buildings, and is used to define specific elements of the building. General guidelines for variations in materials are:

(a) A maximum of three colors, excluding the natural color of brick or stone, may be used on a single structure, except in the case where the building's façade is designed to appear as more than one building. In such case, each element may use a combination of colors as approved by the Landmarks Commission but the overall color scheme of the building should be coordinated.

(b) Changes in materials should occur at inside corners of buildings or transition

with an appropriate trim detail. Material changes at outside corners or in the middle of a wall give an impression of thinness and artificiality which should be avoided.

(c) The use of a coordinating trim material is encouraged on all facades of a building, and should be used to break larger wall planes into smaller more human scale elements.

(d) The number of materials on the exterior of a building should be limited to a few complementary materials.

(e) A palette of proposed materials and colors should be submitted by the applicant for approval by the City.

§151.1518 SIGNAGE

Signage shall be provided in accordance with the standards of §151.30: Sign Regulations.

(a) Signs should respect the overall architectural composition of the building and its scale while not overwhelming the façade. Sign colors must be complementary to the building's material and colors must meet the permitted colors for the OMG §151.15016(a). Signs may not cover architectural features.

(b) Wall signs should be affixed on a continuous, flat, vertical, opaque surface and cannot project more than 6" from the building surface.

(c) Wall signs should not extend higher than the bottom sill of the second story window, or above the lowest point of the roof, or over 25 feet above grade (whichever is lower). They must be at least 6" from the lintel or other trim of the window above or below it.

(d) Window signs may only be applied directly to the inside surface of the window glass. The letters should be 4" or less and symbols cannot be larger than 8".

(e) Wall signs should have a simple design and shall not have more than three (3) lines of letters.

(f) Signs shall only be illuminated by an exterior lighting source. Internally illuminated, back-lit and neon signage is prohibited.

§151.1519 LIGHTING

(a) Lighting shall be appropriate to the district in type, design, location and quantity.

(b) Lighting shall be used in a limited manner, and only to highlight architectural details on a building, illuminate a sign, or to illuminate walkways and/or parking areas.

(c) Lighting used to illuminate parking areas shall meet the standards established in § 151.3212 Lighting.

§151.1520 LANDSCAPING

(a) Landscaping and screening shall be provided as specified in Chapter 151.34 Landscaping and Screening Regulations.

(b) Any principal access or new roads constructed in a development shall comply with the specifications for streetscaping, tree planting and pedestrian elements as established in the City’s Streetscaping plan.

§151.1521 PUBLIC FACILITIES

Adequate public facilities must be available to support the proposed development.

§151.1522 DEFINITIONS.

Architectural Style - The characteristic form and detail of buildings in a particular period.

Articulation (Architectural)- The variation in a building’s surfaces which identify or divide the building into distinct and significant parts.

Building Frontage - The portion of a building’s exterior wall which is parallel to the development frontage and the public street right-of-way or easement.

Development Frontage - The portion of the development site which abuts a dedicated public street right-of-way or easement.

Cornice- Any horizontal member, structural or nonstructural, projecting outward from the exterior walls at the roofline, including eaves and other roof overhang or any molded projection which finishes or crowns the part to which it is attached.

Façade- The exterior walls or surfaces except the roof of a building exposed to public view.

Grade- For the purpose of this chapter, grade shall be defined as the elevation of the sidewalk when present, or street elevation of Montgomery Road or Main Street at the center of the building.

Human Scale- The proportional relationship of a particular building, structure, open space enclosure or streetscape element to the human form and function.

Street Wall- The portion of a building wall facing the street or landscaping which creates a wall to the street, as a wall to a room.

§151.1523 REVIEW PROCEDURE.

(a) The Zoning Administrator, subject to approval by the Landmarks Commission, may adopt certain rules and regulations setting forth the pallet of colors, roof materials, building materials and other construction materials acceptable in the Old Montgomery Gateway District for the enforcement of this Code.

(b) All new and redevelopment projects in the Old Montgomery Gateway

District shall be subject to the development plan review procedures set forth in Chapter 150.14.

(c) Applications for exterior changes to property in the Old Montgomery

Gateway District that is neither a listed landmark nor subject to development plan review shall comply with the procedures set forth in § 150.1207.

**Chapter 151.16
Hospital Corridor Overlay District Regulations (HOS)**

<p>§ 151.1601 Purpose.</p> <p>§ 151.1602 Applicability of District.</p> <p>§ 151.1603 Definitions.</p> <p>§ 151.1604 Parking and Loading Facilities.</p> <p>§ 151.1605 Internal Pedestrian and Automobile Connections.</p>	<p>§ 151.1606 Articulation and Massing.</p> <p>§ 151.1607 Building Materials and Colors.</p> <p>§ 151.1608 Window and Transparency Regulations.</p> <p>§ 151.1609 Rooftop Screening and Utility Housings.</p>
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§151.1601 PURPOSE.

The Hospital Corridor District Regulations (HOS) are established in order to impose specific design criteria for both rehabilitation and new construction projects along the northern portion of the Montgomery Road corridor in the vicinity of Bethesda North Hospital. The overlay regulations address all properties fronting on Montgomery Road with the exception of existing residential properties. The district’s south boundary is the north side of Pfeiffer Road at the intersection with Montgomery Road. The boundary to the north is at the City corporation line near the intersection of Montgomery Road and Weller Road.

Therefore the purposes of this chapter are to:

- (i) Guide development and redevelopment within the Hospital Corridor Overlay District to protect and enhance the City’s image.
- (j) Ensure that new development and redevelopment is respectful of the surrounding residential areas.
- (k) Ensure that new development and redevelopment is consistent with the desired character of the City.
- (l) Create aesthetically cohesive development along the Montgomery Road corridor.
- (m) Provide the basis for consistency and objective decision making by

providing criteria to be used by the Zoning Administrator, Planning Commission, and City Council when evaluating proposed development.

§151.1602 APPLICABILITY OF DISTRICT.

All properties designated HOS – Hospital Corridor Overlay District on the official zoning map of the City of Montgomery and the inset (see Section 151.16) shall be subject to the regulations of this chapter. Current residential uses will become a part of the district when the property is redeveloped to a non-residential use. The underlying regulations applicable to these properties are set forth in Chapter 151.12 and specifically Section 151.1215, but these regulations are intended to supplement such regulations. As a result, the regulations stated in this chapter shall apply to the properties in addition to the underlying zoning district regulations. Where the standards are in discrepancy, the more stringent shall apply.

(a) **Review Procedure.**

- (1) The Zoning Administrator, subject to approval by the Planning Commission, shall adopt certain rules and regulations setting forth the pallet of colors, roof materials, building materials, and other construction materials acceptable in the Hospital Corridor District for the enforcement of this Code.

- (b) **Compliance.**
 - (1) All new construction on a lot in the Hospital Corridor district where the existing principal building is completely removed and a new building is proposed shall be subject to the provisions of this Chapter and the development plan review procedures set forth in § 150.14, unless exempt by §150.1207.
 - (2) Additions to the principal structure which result in an increase in the total exterior wall area of 25% or more shall be subject to the provisions of this Chapter with the exception of §151.1604 & 151.1605; and the development plan review procedures set forth in §150.14, unless exempt by §150.1207.
 - (3) Renovation to existing facades where the renovation only involves the total replacement of an existing façade material need not comply with the provisions of Section §151.1604, 151.1605, 151.1606 and 151.1608, but must use approved colors and materials.
 - (4) Maintenance or minor alterations to existing structures shall be exempt from development plan review and these standards.
 - (5) No conforming structures as of the adoption of these standards shall be modified or altered in a manner which makes them noncompliant with these standards.
 - (6) Site modifications, parking, and modifications to mechanical equipment shall meet the standards related to those features to the maximum extent feasible.

Modifications to the site will not require modifications to the building.

- (7) Applications for exterior changes to property in the Hospital Corridor Overlay District that is not subject to a development plan review shall comply with the procedures set forth in §150.1207.

§151.1603 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

BULKHEAD. The part of the façade that forms a base for one or more windows on the ground floor, typically in traditional store fronts. See Figure 1.



Figure 1

CLERESTORY. An upper story row of windows, or windows so placed. Often applied when there is not an actual interior corresponding floor. See Figure 2.

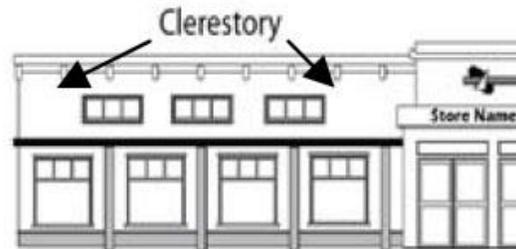


Figure 2

CUPOLA. A domed or hipped roof cap, usually topping a roof or turret.

FENESTRATION. Window and other openings in a building’s façade.

GLAZING. Fitted or covered with glass.

KICK PLATE. A hard plate or veneer fitted to the lower portions of a building including the lower rail of a door, bulkhead, or risers of a step to prevent damage from moderate impact. Also referred to as a “toe kick”.

MULLIONS. A vertical member separating (and often supporting) windows, doors, or panels set in series. **See Figure 3.**

MUNTIN. A secondary framing member to hold panes within a window, window wall, or glazed door. **See Figure 3.**

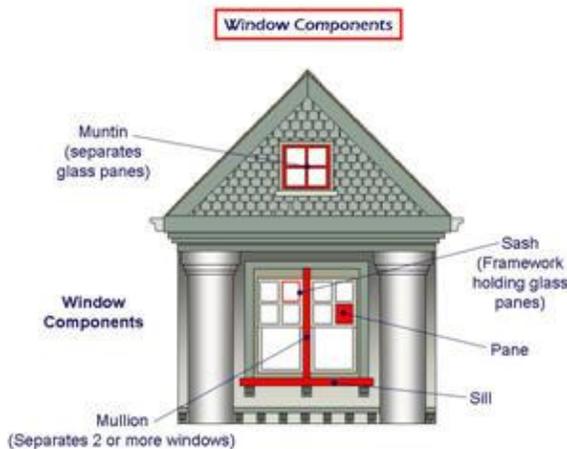


Figure 3
 Source: www.axiominspection.com

QUOINING. Dressed stones or bricks at the corners of buildings laid so that their faces are alternately large and small. Originally used to add strength to the masonry wall, they are now used for more decorative purposes. **See Figure 4.**

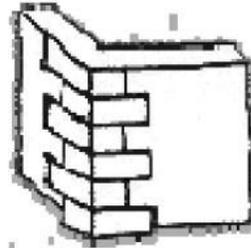


Figure 4

SPANDREL. A wall panel filling the space between the top of a lower story window and the sill of an upper story window. Often with ornamentation or as a place for signage.

SPANDREL GLASS. Heat-strengthened flat glass with a colored ceramic coating adhered to the back by a heat fusion process. It has double the strength of annealed glass of the same size and thickness, enabling it to withstand greater uniform loads and thermal stresses. Spandrel glass cannot be re-cut after heat strengthening. It is used as fixed opaque colored glass on buildings in front of floor slabs and columns. It is available in a wide array of colors.

VISIBLE. Capable of being seen or exposed to view from a public place or residential property.

VISIBLE TRANSMITTANCE (VT). An optical property that indicates the amount of visible light transmitted. The higher the VT the more light is transmitted.

WATER TABLE. A horizontal projecting string course, molding, or ledge placed so as to divert rainwater from a building’s foundation. In traditional buildings, this element is often placed at or directly

above the sill between the foundation and the base of the structural wall.

WIDOW’S WALK. A walkway or narrow platform on roof. Also referred to as a “captain’s walk.”

§151.1604 PARKING AND LOADING FACILITIES.

(a) Parking shall be located to the side or rear of buildings relating to the Montgomery Road frontage when it can be effectively screened from adjacent residential uses through the use of walls and/or landscaping.

(b) If a site is too narrow to effectively provide parking to the side of the building, the required parking spaces can be provided between the street and the building, but shall be screened from public view by berms or landscaping and meet the setback requirements stated in §151.1207.

(c) The visual and environmental impact of loading areas and off-street parking should be reduced through their location on the site, their design and configuration, inclusion of landscaping, and minimization of impervious surfaces.

§151.1605 INTERNAL PEDESTRIAN AND AUTOMOBILE CONNECTIONS.

(a) **Pedestrian Connections**

- (1) Attractive, well marked pedestrian connections shall be provided between parking areas and the entrances to buildings.
- (2) Pedestrian connections from public sidewalks to building entrances should be provided along private access drives.
- (3) Pedestrian connections between adjacent commercial and office developments/buildings are encouraged. **See Figure 5.**

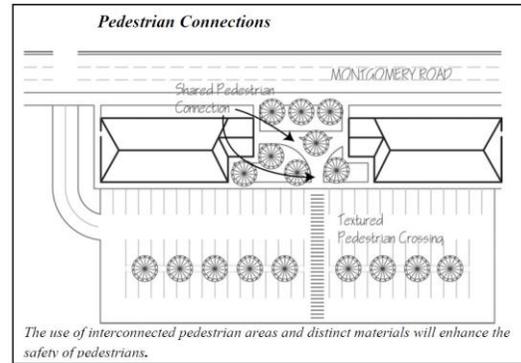


Figure 5

(b) **Pedestrian Safety**

- (1) When feasible, pedestrian connections or paths shall be incorporated to reduce the conflict between pedestrian and vehicular traffic.
- (2) Pedestrian connections and paths shall be clearly identified through the use of alternate paving materials, colors, pavement markings or textures at key locations where they cross vehicular circulation patterns at grade.
- (3) Materials used in the development of pedestrian connections shall be level and slip resistant to reduce the potential for tripping hazards and promote access for all users.

§151.1606 ARTICULATION AND MASSING.

- (a) A single, large, dominant building mass shall be avoided.
- (b) Facades shall incorporate variation through the use of recesses, projections, windows, columns, horizontal and vertical offsets, awnings, canopies, and similar features.
- (c) A building’s vertical and horizontal dimensions should be related to each other through the use of bays or articulation that visually separate the building planes into components with

proportions that emphasize neither the vertical nor horizontal dimension beyond a 2:3 ratio. Buildings with larger footprints should have the façade subdivided into components to provide variation and a hierarchy of components. See Figure 6.

brackets; stepped parapets; or aligned openings and articulations.

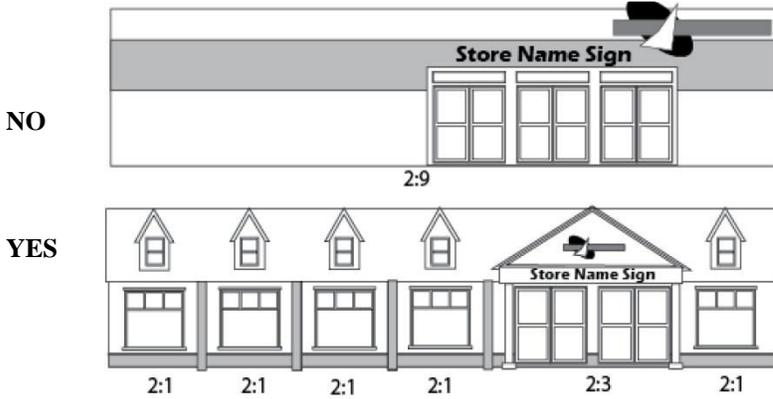


Figure 6

(d) Building shall have a clearly defined base, middle, and top. See Figure 7.

- (1) A recognizable base may consist of, but is not limited to: thicker walls, ledges, or sills; integrally textured materials such as stone or masonry; integrally colored and patterned materials such as smooth-finished stone or tiles; lighter- or darker-colored materials different from the body of the building; mullions; or panels. The use of bulkheads and water table trims are strongly encouraged.
- (2) A recognizable top may consist of, but is not limited to: dimensional cornice treatments other than just colored stripes or bands, variation in masonry pattern or material or differently colored materials; sloping roof with overhangs and

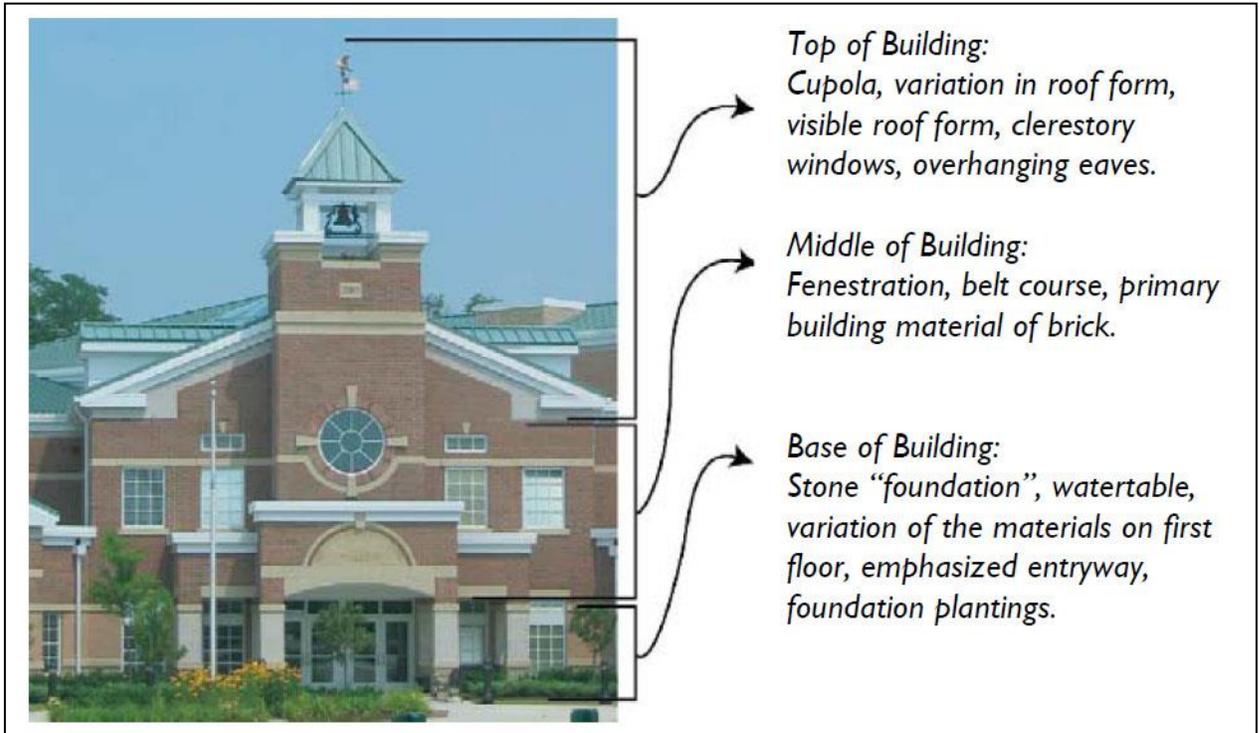


Figure 7

(e) Primary facades which have total building heights over fifteen (15) feet which have only one floor level shall be vertically articulated to present the appearance of a clerestory, half-story, or multiple full stories through one of the following methods:

- (1) Exterior demarcation of the change in floors such as a soldier course, belt course, change in material, or masonry patterns every twelve (12) feet, or portion thereof, of vertical height.
- (2) Vertical recess of wall plane to a depth of at least three (3) percent of the building’s depth, indicating the presence of a wall change.

(f) Building Entrances

- (1) Canopies, awnings, porticos, atriums, or similar features may be used to demarcate primary entrances to buildings.

- (2) Entry features should not exceed the average building height by more than 10%.
- (3) Entry features should not occupy more than 40% of the horizontal façade length.
- (4) Building entrances may be set back or project to add emphasis to the entrance.
- (5) Building entrances should coordinate with the scale, mass, and style of the building.

§151.1607 BUILDING MATERIALS AND COLORS.

(a) Permitted Materials

- (1) **Primary Materials** - A minimum of fifty (50) percent of each visible façade surface shall be finished in brick, stone, natural wood clapboard, wood board and batten, or wood shingles. Modern manufactured materials that create the appearance of these materials such as Hardiplank™,

architectural panels, or cast stone may be considered appropriate. Glass cladding must be installed at least eighteen (18) inches from the ground. (See Section 151.1608 for additional regulations on glazing.)

- i. Atriums, entryways or additions which extend from the main foot print and do not exceed 10% of the total floor area of a building or are designed to be used as a conservatory, or entry feature may be exempt from the primary materials standards and be almost entirely glazed provided glazing is installed at least eighteen inches from the ground.
- (2) **Accent Materials** - No more than thirty (30) percent of each visible façade may be clad in the following materials: copper, terra cotta, or decorative concrete masonry units, stucco, and EIFS (exterior insulated finish systems), decorative precast panels and non-reflective architectural metal panels
- (3) **Other Materials** - Other materials not listed as prohibited may be considered by the Planning Commission on a case-by-case basis as a primary or accent building material. The use of energy producing elements, advanced roofing features, and other energy efficient features is encouraged.
- (4) Visible roofing materials shall be appropriate for the architectural style of the structure. Dimensional asphalt shingles, slate, synthetic slate, and tile are permitted materials.
- (b) **Prohibited Materials**
- (1) Exterior covering materials that are prohibited include vinyl,

aluminum siding, standard concrete masonry units (cinder block), tilt-up concrete, corrugated steel and highly reflective materials such as mirrored glass or chrome.

- (c) **Permitted Colors**
- (1) The base colors used on buildings in the HOS District should be of the natural color of the material in the case of brick or stone, or of a muted pallet. Brighter more vivid colors should be reserved for limited use as a trim or accent.
 - i. Any proposed color or materials scheme not consistent with these Guidelines, including but not limited to those with trademarked or brand affiliated colors, must be approved by the Planning Commission.
 - ii. Exemption for signs. The permitted colors do not apply to signage as regulated by §151.30.
- (d) **Prohibited Colors**
- (1) No fluorescent, neon, or reflective colors shall be used in the construction of a new building or renovation of an existing building within the corridor.
 - i. Exemption for signs. The prohibited colors shall not apply to signage as regulated by §151.30.
- (e) **Color and Material Variation**
- (1) A maximum of four (4) different materials or colors shall be used on a single structure, except in the case where the building’s façade is designed to appear as more than one building. In such case, each element may use a maximum of four (4) colors and or materials, but the overall color scheme of the building should be coordinated.

- (2) Transition of Materials
 - i. When a transition from one material to another is made on the same façade, it shall be completed either with appropriate trim or as an accent with variation such as quoining or reveals based on the material thickness.
 - ii. When a transition in materials is made from one façade to another, the transition of materials shall be made at an inside corner.

- (3) Windows shall not be installed to run from grade. A bulkhead constructed of brick, stone, wood, or fiber cement siding with a minimum of eighteen (18) inches shall stand between the sill of the window and grade. This area should be finished to enhance the architecture of the building. Inclusion of a water table, knee wall, or kick plate is required to articulate the base of the façade.
 - iii. A maximum of fifty (50) percent of a façade area shall consist of glazing. Atriums, entryways or additions which extend from the main foot print and do not exceed 10% of the total floor area of a building or are designed to be used as a conservatory or entry feature may be exempted from the glazing standards and be almost entirely glazed provided glazing is installed at least eighteen inches from the ground.
- (4) Windows should be modulated and separated by mullions or muntins finished in permitted materials. Fully glazed facades shall not be permitted.
- (5) Multi-story windows may be reviewed and approved by the City on a case-by-case basis.

§151.1608 WINDOW REGULATIONS.

Fenestration and window openings in a façade assist with the articulation of a building and improve the overall visual appearance.

(a) Window Scale and Proportions

- (1) Windows should be between 25 percent and 50 percent of the of the floor height as measured from floor to ceiling. It should be designed for an organized exterior appearance and the intended use of the building.
- (2) Horizontally proportioned windows are encouraged to be divided into vertically proportioned components either through multi-part windows or other divided lights. **See Figure 8.**



Figure 8

(b) Fenestration Patterns and Rhythm

- (1) Generally window openings or groups of windows should be equidistant from one to another to create a regular pattern.
 - i. A horizontal distance of more than one and one-half (1.5) times the width of the windows or a group of windows should be avoided unless other elements of the façade's detailing or building

articulation help continue an established pattern.

- (2) When a genuine window opening is not feasible, variation in the façade pattern or the use of “blanks” on mortar buildings and shuttered windows on non-mortar buildings may be considered.
- (3) Windows on upper stories should generally be vertically aligned with lower story windows or offset in a manner that creates an intentional pattern.
 - i. If the distance between the lintel of the first floor and the second floor windows is greater than two (2) times the height of the upper story window, spandrel panels shall be used. See **Figure 9**.

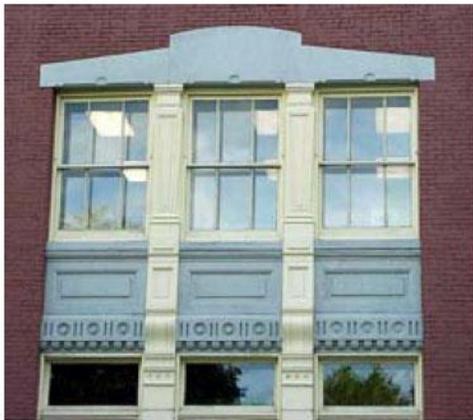


Figure 9

- (4) Windows used to establish a fenestration pattern should generally be of the same size; however, smaller or larger windows may be employed to create variation and interest.
- (c) **Glazing**
 - (1) Fully opaque glazing or mirrored glazing is prohibited for required window openings. The Planning Commission may approve fully

opaque glazing on the first floor of medical office buildings.

- (2) Spandrel or other opaque glass may be appropriate in limited applications as an accent, where genuine window openings are not feasible due to internal layout, but not as a replacement for the required windows.
- (d) **Blanks**
 - (1) Blanks or bricked in openings may be used in locations where genuine window openings are not feasible due to internal layout, to continue an established window pattern. See **Figure 10**.



Figure 10

§151.1609 ROOFTOP SCREENING AND UTILITY HOUSINGS.

Rooftop equipment shall be located in a manner so that it shall be screened from public view and adjacent residential properties.

Equipment screening must be provided so that rooftop equipment should be minimally visible from public rights-of-way or adjacent residential properties when viewed from an average second story window at a height of eighteen (18) feet above the grade at the property line, at a point thirty-five (35) feet from the property line of the residential property. See **Figure 11**.

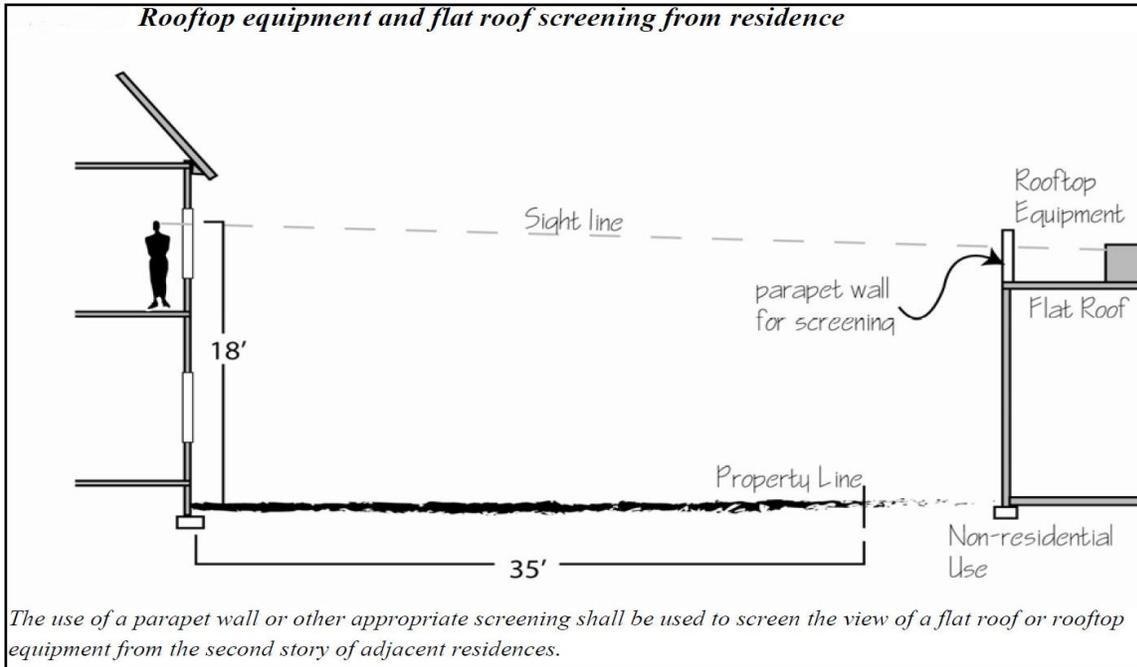


Figure 11

(a) Use of parapet walls and the placement of equipment shall be coordinated with the specified site lines identified above.

(b) All utility housings, junctions, and other exterior duct work or conduits shall be painted and/or permanently colored to match the basic building material color on which it is located; or successfully integrated with other trim or detailing in a manner that enhances the architectural style of the structure. **See Figure 12.**



Figure 12

(c) Flat roofs with parapets and decorative cornices are appropriate on buildings with at least two (2) stories with finished wall heights of more than twenty (20) feet.

(d) Creative treatments of traditional roof elements such as dormers, cupolas, or widow's walks to screen rooftop equipment from view from the primary road and/or adjacent residential uses are encouraged.

(e) Roof-mounted mechanical or utility equipment should be screened in a manner that is architecturally integrated with the structure through the use of materials, color, shape, and size.

(1) The screening materials should be solid building elements such as parapet walls, cupolas, or dormers, etc., rather than add-on screening materials wherever possible.

Chapter 151.20
Conditional Use Regulations

Table with 4 columns: Section Number, Description, Section Number, Description. Rows include 151.2001 Purpose, 151.2002 General criteria for all conditional uses, 151.2003 Specific standards for conditional uses, 151.2004 Schedule of minimum lot and yard dimensions for conditional uses in residential districts, 151.2005 Supplemental regulations for conditional uses in residential districts, 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, 151.2007 Supplemental regulations for certain uses, 151.2008 Accessory building regulations for conditional uses in residential districts.

§ 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;
(b) Will not be detrimental to property values in the immediate vicinity;

- (c) Will not restrict or adversely affect the existing use of the adjacent property owners;
- (d) Will be designed and constructed so that all access drives, access points to public streets, driveways, parking and service areas shall be in compliance with the regulations set forth in Chapter 151.32;
- (e) Will be properly landscaped in accordance with Chapter 151.34;
- (f) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;
- (g) The hours of operation of the proposed use are similar to a use permitted in the district;
- (h) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (i) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
- (j) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets;
- (k) The establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools; and
- (l) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible.

§ 151.2003 SPECIFIC STANDARDS FOR CONDITIONAL USES.

In addition to the general criteria established in Section 151.2002, the following specific conditions pertaining to each use or group of uses shall apply.

(a) Supplementary Conditions and Safeguards. Nothing in these regulations shall prohibit the Planning Commission from prescribing supplementary conditions and safeguards in addition to these requirements in order to ensure compliance with the criteria set forth in Section 151.2002.

(b) Conformance with District Regulations. A conditional use shall conform to the regulations of the district in which it is located and to other substantive requirements of this Zoning Code, as well as satisfy the conditions, standards and requirements of this Chapter. In the event that the standards of this Section conflict with the standards of other sections of the Zoning Code, these standards shall prevail, except for nonconforming uses as regulated in Chapter 151.50.

§ 151.2004 SCHEDULE OF MINIMUM LOT AND YARD DIMENSIONS FOR CONDITIONAL USES IN RESIDENTIAL DISTRICTS.

Schedule 151.2004 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 residential districts. Supplemental requirements pertaining to such uses are set forth in Section 151.2007, and the specific subsections are referenced in Schedule 151.2004, below.

Schedule 151.2004

Minimum Area, Width and Yard Regulations for Conditional Uses in Residential Districts

Conditional Use:	Minimum Lot Regulations		Minimum Building Setbacks For Principal Buildings			Minimum Parking Setbacks		Also See Section:
	Area	Width	Front	Side	Rear	Front	Side – Rear	
1. Cemeteries	See Section 151.2007(e)							
2. Clubs, lodges or other assembly halls	1 ½ ac	150 ft	50 ft	(b)	50 ft	50	20 ft	151.2007(f)
3. Day care within churches, schools	--	--	--	--	--	(a)	(a)	151.2007(g)
4. Golf courses	None	None	50 ft	(b)	50 ft	50	20 ft	151.2007(j)
5. Libraries, museums	1 ac	150 ft	50 ft	(b)	50 ft	50	20 ft	151.2007(l)
6. Places of worship	1½ ac	150 ft	50 ft	(b)	50 ft	50	20 ft	151.2007(q)
7. Public safety facilities	1 ac	150 ft	50 ft	(b)	50 ft	50	20 ft	151.2007(r)
8. Public utility substations	20, 000 sf	100 ft	50 ft	(b)	(c)	50	20 ft	151.2007(t)
9. Retirement villages	1 ½ ac	150 ft	50 ft	(b)	50 ft	50	20 ft	151.2007(u)
10. Schools, public & private	2 ac	200 ft	50 ft	(b)	50 ft	50	20 ft	151.2007(v)
11. Wireless Telecommunications Facilities	See Chapter 151.36							

Notes to Schedule 151.2004:

- (a) Shall comply with the parking setback requirements for the principal building on the lot.
- (b) Shall be twice the side yard setback requirement set forth in the district regulations.
- (c) Shall comply with district regulations for a single-family dwelling.

ft = feet sf = square feet ac = acres
 -- = Not applicable NP = Not permitted

§ 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. The Planning Commission or City Council may approve up to 50% impervious surface if stormwater best management practices are used and the increase in impervious surface area does

not negatively impact the surrounding neighborhood.

§ 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 boarding facility	(a)	(a)	(a)	(b)	(a)	(a)	151.2007 (a)
2. Automobile, truck and trailer sales and rental	3 ac	200 ft	(a)	(a)	(a)	(a)	151.2007(b)
3. Bed and Breakfast	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(c)
4. Car wash	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(d)
5. Drive-through facility in association with a permitted use	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(h)
6. Gasoline stations	.5ac	100ft	50ft	50ft	(a)	(a)	151.2007(i)
7. Hospitals	3 ac	300 ft	(a)	(a)	(a)	(a)	151.2007(k)
8. Mixed Use Developments	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(m)
9. Nursing homes	3 ac	300 ft	(a)	(a)	(a)	(a)	151.2007(n)
10. Outdoor recreation including tennis courts, miniature golf courses, swimming pools and similar uses	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(o)
11. Parking as principal use (lot or garage)	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(p)
12. Places of worship	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(q)
13. Public service facility	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(s)
14. Public utility substation	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(t)
15. Retirement villages	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(u)

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

Conditional Use:	Minimum Lot Regulations		Minimum Building Setbacks		Minimum Parking Setbacks		Also See Section:
	Area	Width	Front	Side-Rear ^(b)	Front	Side – Rear ^(b)	
16. Schools, public & private	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(v)
17. Vehicle maintenance and repair facility	(a)	(a)	(a)	(a)	(a)	(a)	151.2007(w)

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

§ 151.2007 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.

The following are specific conditions, standards and regulations for certain conditional uses and are in addition to the criteria and standards set forth in Sections 151.2002, 151.2003, 151.2004, 151.2005, and 151.2006.

(a) Animal boarding facility shall comply with the following:

- (1) All animal housing and play areas shall be located inside an enclosed building with baffled air intake and discharge.
- (2) No operable windows shall be permitted and all fixed windows shall be double glazed.
- (3) Outdoor exercise areas shall not be located closer than 100 feet to any residential property and shall be screened from adjacent residential properties. All outdoor exercise areas and runs shall be enclosed by a solid fence or similar enclosure as approved by the Planning Commission and/or Council.

(4) Unattended outdoor exercise areas shall be visually screened from other exercise areas so that dogs cannot see each other.

(5) No animals shall be walked or exercised in outdoor areas between the hours of 7 p.m. and 7 a.m.

(6) The proposed use shall not generate excessive odor or noise beyond the premises. In order to minimize any effects of the above, the Planning Commission and/or Council may impose additional noise reduction measures, including mounding, landscaping and sound barriers, to assure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.

(b) Automobile, truck, and trailer sales and rental shall comply with the following:

- (1) Vehicle parking areas, equipment storage areas, maneuvering lanes, and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile traffic on and adjacent to the site.

- (2) Display of vehicles for sale shall be located on a paved surface and shall comply with the parking setbacks according to the regulations in Section 151.1207.
- (3) No junk or inoperative vehicle shall be permitted to remain outdoors on the property for a period exceeding 72 hours.
- (4) Lighting for all areas used for the outdoor display of automobiles shall be in accordance with a plan consistent with the lighting regulations set forth in § 151.3213(c) and approved by the Planning Commission.

(c) Bed and Breakfasts shall comply with the following:

- (1) Such use may only occupy an existing structure that was previously occupied for residential purposes or a new structure that shall be residential in character.
- (2) A maximum of 4 guestrooms shall be permitted and shall be located within the dwelling.
- (3) Meals shall be provided only to guests taking lodging in the facility.
- (4) The building shall not contain a commercial kitchen and guestrooms shall not contain cooking facilities. A common lounge area may be provided for guests.

(d) Car washes shall comply with the following:

- (1) The facility shall be located in an enclosed building or in an area covered by a roof, unless otherwise permitted by the Planning Commission.
- (2) The area for the facility shall be located on the lot so as to utilize the maximum amount of the lot for the purpose of containing the waiting

line of cars prior to the time the cars or other vehicles are actually serviced.

- (3) Run off from the washing of vehicles shall be directed to a sanitary drain.

(e) Cemeteries and related structures shall comply with the following:

- (1) No building, including a mausoleum or crematory, shall exceed three stories or 45 feet, including all construction mechanicals.
- (2) Burial vaults or crypts, gravestones, grave markers, monuments, statuary or bell towers and similar structures which do not exceed six feet in height shall be setback 15' from all property lines.
- (3) Structures, as described in subsection (2) above, greater than six feet in height but not exceeding 45 feet in height, shall be setback not less than 50 feet from the right-of-way line or any lot zoned and used for residential purposes abutting the cemetery property. Accessory buildings and sheds used for general maintenance of the cemetery grounds and other structures not related to a gravesite, must be setback a minimum of 50' from the front property line and 25' from the side and rear property line.
- (4) Any building, mausoleum, crematory, or associated parking, shall be setback 50 feet from the street right-of-way line.

(f) Clubs, lodges or other assembly halls shall comply with the following:

- (1) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.

- (2) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.
- (3) Planning Commission and/or Council may require all outdoor children’s activity areas to be enclosed by a fence at a height approved by the Planning Commission and/or Council.
- (4) Outdoor activity areas shall not be located closer than 20 feet to any residential property.
- (5) Night lighting of outdoor activity areas shall be determined upon a careful review and consideration of all site and adjacent residential property characteristics.
- (6) All activities, programs and other events shall be directly related to the conditional use permit so granted.
- (7) No building shall exceed 3 stories or 45 feet, including all construction mechanicals.
- (8) The design of new structures or modifications to existing structures shall be visually compatible with the character of the surrounding residential neighborhood.
- (9) Parking lots shall be in compliance with §151.32 and §151.3408.
- (10) Ground mounted identification signs for clubs, lodges or other assembly halls shall be permitted in compliance with the criteria set forth for ground mounted residential development identification signs in §151.3012(a).
- (g) Day care within churches and schools shall comply with the following:
 - (1) Day cares located within conditionally approved churches and schools shall be permitted, if the use is clearly accessory to the principal use of the building.
 - (2) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhood
 - (3) An on-site drop-off/pick-up area that will not impede traffic on or off the site shall be provided at the main entrance to the facility to ensure the safety of children and adults. Additional parking shall be provided in compliance with Chapter 151.32.
 - (4) All outdoor children’s activity areas to be enclosed by a fence at a height approved by the Planning Commission and/or Council.
 - (5) The Planning Commission and/or Council may impose restrictions on the hours of operation, both indoor and outdoor.
 - (6) Such uses shall be permitted one (1) ground mounted or wall mounted identification sign not to exceed twelve (12) square feet in size. Ground mounted identification signs for daycares within an approved church or school shall be in compliance with the criteria set forth for ground mounted residential development identification signs in §151.3012(a)(2) – (6).
 - (h) Drive-through facility in association with a permitted use shall comply with the following:
 - (1) Drive-through facilities and associated access aisles and canopies shall not be permitted to

- be in the front yard of any lot and shall be a minimum of 200' from a residential dwelling unit.
- (2) No signage shall be permitted on the canopy covering of a drive-through facility.
 - (3) Drive-through facilities shall be in compliance with the supplemental regulations set forth for drive-through facilities and free-standing automated teller machines in §151.1214.
 - (i) Gasoline stations shall comply with the following:
 - (1) Fuel pumps and associated access aisles and canopies shall not be permitted to extend closer to the street right-of-way than 50 feet. Fuel islands must be located at least 200' from a residential dwelling unit.
 - (2) The only service permitted to be performed on a vehicle at a gasoline station shall be the dispensing of fuel, oil, air, and windshield wiper fluid.
 - (3) Except while being serviced at a pump island, no vehicle shall be parked between the pumps and the front property line.
 - (4) Signage shall not be permitted on the canopy covering the fuel pumps.
 - (5) A maximum of six square feet of manual or LED changeable copy shall be permitted on a permanent ground mounted sign for the display of gas prices only. LED changeable copy signs shall not incorporate flashing lights and shall not exceed 0.3 footcandles over ambient lighting conditions.
 - (6) Car washes shall be permitted as an accessory use to a gasoline station if they can accommodate only one car at a time during both the wash and dry cycles.
 - (j) Golf Courses shall comply with the following:
 - (1) Vehicular access to such uses shall be located on a major street.
 - (2) Only incidental retail sales and services shall be permitted related to a snack bar, restaurant or pro shop. Such retail and service uses shall be provided for the convenience of the patrons and no sign advertising such retail or service use shall be permitted.
 - (k) Hospitals shall comply with the following:
 - (1) Such use shall be located on an arterial or collector street.
 - (2) Outdoor storage of ambulances and other vehicles used in the operation of the principal use may be permitted provided such storage areas shall be located in the side or rear yard in off-street parking areas.
 - (3) The minimum setbacks for individual buildings shall comply with those established in Schedule 151.2006. As part of the development plan approval for a conditional use permit, Planning Commission and/or Council may establish greater setbacks when the minimum setbacks do not provide adequate safeguards to adjoining residential property, due to topography, vegetation or building size.
 - (l) Libraries and museums shall comply with the following:
 - (1) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.

- (2) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.
- (3) No building shall exceed 3 stories or 45 feet, including all construction mechanicals.
- (4) The design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.
- (5) Outdoor exhibit areas shall meet the setbacks established for parking in the district.
- (6) Parking lots shall be in compliance with §151.32 and §151.3408.
- (m) Mixed Use Developments shall comply with the following:
 - (1) A mixed use development in the LB and GB districts shall have a minimum project size of 3 acres.
 - (2) The mixed use development project area shall be in one ownership or if in several ownerships, the application shall be filed jointly by all owners of the properties included in the proposed mixed use development boundaries.
 - (3) The uses permitted within a mixed use development shall be governed by the permitted uses established in the respective L-B or GB District, in which the project is located, and may also include single-family attached dwellings, single-family detached clusters, and multi-family dwellings.
 - (4) When residential uses are included in a mixed use development plan, as permitted in subsection (2) above, such uses shall conform to the building and parking setback requirements and height regulations established for the district in which the project is located.
- (5) Residential uses proposed as part of a mixed use development shall not exceed 50% of the total gross floor area proposed in the project in the LB or GB districts.
- (5) If the development is to be implemented in phases, each phase shall be presented at the time of development plan review, as required by § 150.1402, in order to demonstrate the location and mix of uses proposed for development.
- (n) Nursing Homes shall comply with the following:
 - (1) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on the residential area
 - (2) The minimum setbacks for individual buildings shall comply with those established in Schedule 151.2006. As part of the development plan approval for a conditional use permit, Planning Commission and/or Council may establish greater setbacks when the minimum setbacks do not provide adequate safeguards to adjoining residential property, due to topography, vegetation or building size.
 - (3) The development plan shall indicate the parking and emergency entrances or exits and other safety precautions.
 - (4) Outdoor storage of vehicles used in the operation of the principal use may be permitted provided such storage areas shall be located in the side or rear yard in off-street parking areas.

- (o) Outdoor Recreation including Tennis Courts, Miniature Golf Courses, Swimming Pools and Similar Uses shall comply with the following:
 - (1) The proposed use shall not generate excessive odor, dust, or smoke beyond the premises. In order to minimize any effects of the above, the Planning Commission and/or Council may impose additional noise reduction measures, including mounding, landscaping and sound barriers, to assure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.
 - (2) All active recreation areas shall be enclosed by a fence or similar enclosure as approved by the Planning Commission and/or Council.
 - (3) Rifle ranges, skeet shooting ranges, pistol ranges, and other activities involving the use of firearms shall not be permitted.
 - (4) Delivery trucks shall not be used as refreshment stands, souvenir stands or concession stands.
 - (5) Only retail uses that are customarily accessory and incidental to the main recreational use shall be permitted as part of the recreational area. Included as such retail uses are refreshment stands, souvenir stands, concession stands and other similar uses.
 - (6) All activities, programs and other events shall be directly related to the conditional use permit so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
- (p) Parking as principal use of the lot shall comply with the following:
 - (1) Parking lots shall be in compliance with §151.32 and §151.34.
 - (2) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.
 - (3) Surface parking shall not account for more than 40% of the lot width for lots fronting on Montgomery Road or Main Street.
 - (4) Parking structures shall be in conformance with the height requirements as established for principal building in the district.
 - (5) Parking structures shall meet the setbacks as established for the principal building in the district. Landscaping shall be in compliance with §151.34 and lighting shall be provided in accordance with §151.34.
 - (6) The design of parking structures or modifications to existing structures shall be visually compatible with the district and the surrounding residential neighborhood character.
- (q) Places of Worship shall comply with the following:
 - (1) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.
 - (2) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.

- (3) In any district, the Planning Commission and/or Council may require all outdoor children's activity areas to be enclosed by a fence at a height approved by the Planning Commission and/or Council. An entry gate shall be securely fastened.
- (4) Outdoor activity areas shall not be located closer than 20 feet to any residential property. Play structures and other similar apparatus shall not be located closer than 40 feet to any residential property.
- (5) Night lighting of outdoor activity areas shall be determined upon a careful review and consideration of all site and adjacent residential property characteristics. Places of worship must also comply with the regulations in §151.3212(c) and 151.1213(b).
- (6) No building shall exceed 3 stories or 45 feet, including all construction mechanicals. Church and temple steeples/spires may be erected to a height not exceeding 75 feet; provided however, in both instances, that the building is set back from each required yard at least one foot for every foot of additional building height above the height limit otherwise provided in the district where the building is built.
- (7) When located in a residential district, the design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.
- (8) All activities, programs and other events shall be directly related to the conditional use permit so granted and shall be adequately and properly supervised.
- (9) Associated uses such as a convent, faculty residence, cafeteria, fieldhouse or infirmary shall be located on the same lot as the principal use and comply with the building setback requirements set forth in this chapter.
- (r) Public Safety Facilities shall comply with the following:
 - (1) The minimum setbacks for individual buildings shall comply with those established in Schedules 151.2004 and 151.2006, respectively. As part of the development plan approval for a conditional use permit, Planning Commission and/or Council may establish greater setbacks when the minimum setbacks do not provide adequate safeguards to adjoining residential property, due to topography, vegetation or building size.
 - (2) No building shall exceed 3 stories or 45 feet, including all construction mechanicals.
 - (3) Outdoor storage of vehicles used in the operation of the principal use may be permitted provided such storage areas shall be located in the side or rear yard in off-street parking areas. Freestanding carports which are visually compatible with the principal structure and are used for the storage of vehicles used in operation of the principal use shall be permitted in the side and rear yard, provided the carport maintains a minimum setback of 20 feet from adjoining residentially zoned property.
 - (4) When located in a residential district, the design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.

(s) Public Service Facilities shall comply with the following:

- (1) The proposed use shall not generate excessive odor, dust or smoke beyond the premises. In order to minimize any effect of the above, the Planning Commission and/or Council may impose additional noise reduction measures, including mounding, landscaping and sound barriers, to assure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.
- (2) The minimum setbacks for individual buildings shall comply with those established in Schedule 151.2006. As part of the development plan approval for a conditional use permit, Planning Commission and/or Council may establish greater setbacks when the minimum setbacks do not provide adequate safeguards to adjoining residential property, due to topography, vegetation or building size.
- (3) Natural or man-made barriers shall be provided to lessen any intrusion into a residential area.
- (4) When practicable, storage of materials shall be within a completely enclosed building. Outdoor storage areas shall be enclosed by a fence or similar enclosure as approved the Planning Commission and/or Council.
- (5) Run off from areas of outdoor storage shall be directed to a sanitary drain.
- (6) No building shall exceed 3 stories or 45 feet, including all construction mechanicals.
- (7) Outdoor storage of vehicles used in the operation of the principal use

may be permitted provided such storage areas shall be located in the side or rear yard in off-street parking areas. Freestanding carports which are visually compatible with the principal structure and are used for the storage of vehicles used in operation of the principal use shall be permitted in the side and rear yard, provided the carport maintains a minimum setback of 35 feet from adjoining residentially zoned property.

(t) Public Utility Substations shall comply with the following:

- (1) Natural or man-made barriers shall be provided to lessen any intrusion into a residential area.
- (3) Storage of materials shall be within a completely enclosed building.
- (4) Substations shall be located a minimum of 100 feet from any dwelling existing at the time the substation is erected.

(u) Retirement Villages shall comply with the following:

- (1) A retirement village may include one or more of the following types of residential facilities:
 - i. Independent living with congregate dining facilities,
 - ii. Congregate living, or
 - iii. Assisted living.

Nursing care may be permitted as an accessory use to one or more of the above facilities in a retirement village.
- (2) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on the residential area.

- (3) The minimum setbacks for individual buildings shall comply with those established in Schedules 151.2004 and 151.2006, respectively. As part of the development plan approval for a conditional use permit, Planning Commission and/or Council may establish greater setbacks when the minimum setbacks do not provide adequate safeguards to adjoining residential property, due to topography, vegetation or building size.
- (4) The design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.
- (5) The development plan shall indicate the parking and emergency entrances or exits and other safety precautions.
- (v) Schools, Public & Private shall comply with the following:
 - (1) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on the residential area.
 - (2) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.
 - (3) In any district, the Planning Commission and/or Council may require all outdoor children’s activity areas to be enclosed by a fence at a height approved by the Planning Commission and/or Council. An entry gate shall be securely fastened.
 - (4) All outdoor activity areas shall be setback a minimum of 50 feet from any residential property. Any outdoor activity area with night lighting shall be setback 100 feet from any residential property.
- (5) No building shall exceed 3 stories or 45 feet, including all construction mechanicals.
- (6) When located in a residential district, the design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.
- (7) The minimum setbacks for individual buildings shall comply with those established in Schedules 151.2004 and 151.2006, respectively. As part of the development plan approval for a conditional use permit, Planning Commission and/or Council may establish greater setbacks when the minimum setbacks do not provide adequate safeguards to adjoining residential property, due to topography, vegetation or building size.
- (8) A designated on-site drop-off/pickup area shall be provided at the facility.
- (9) All activities, programs and other events shall be directly related to the conditional use permit so granted and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or the community in general.
- (10) Associated uses such as a stadium, cafeteria, and other similar uses shall be located on the same lot as the principal use and comply with the building setback requirements set forth in this chapter.
- (w) Vehicle Maintenance and Repair Facility shall comply with the following:

- (1) All work shall be conducted entirely within an enclosed building.
- (2) Outdoor storage of supplies, parts and merchandise shall be within an entirely enclosed building; however, an area not to exceed 200 square feet in size of outdoor storage shall be permitted, if the area is entirely screened by an opaque fence and landscaping.
- (3) The parking of employee vehicles and vehicles waiting to be serviced or returned to the customers following service shall be parked in areas indicated for such parking on the approved site plan.
- (4) No junk, inoperable or unlicensed vehicles may be stored on site.

§151.2008 ACCESSORY BUILDING REGULATIONS FOR CONDITIONAL USES IN RESIDENTIAL DISTRICTS.

Accessory buildings for storage 576 square feet or less may be set back a minimum of 15’ from the side or rear property line when abutting a residential use or district and 10’ when abutting an office or commercial district. Buildings over 576 sq. ft. must meet the setbacks of principal buildings. Accessory buildings are not permitted in the front yard.

§151.2009 ACCESSORY BUILDING REGULATIONS FOR CONDITIONAL USES IN OFFICE AND COMMERCIAL DISTRICTS.

Accessory buildings for storage in the Office and Commercial Districts shall meet the setback requirements established in Section 151.1211(a).

**CHAPTER 151.30
Sign Regulations**

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

§ 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 location of signs for traffic safety purposes

so as not to distract traveling within the City.

(j) Allow a medium for non-commercial expression balanced against the community’s interest to preserve the integrity and aesthetics of the residential community.

(k) Prohibit all signs not expressly permitted by this Chapter, if not otherwise listed in Section 151.3003.

§ 151.3002 CLASSIFICATION OF SIGNS.

For the purposes of these regulations, a sign can include any object, device, display, graphic, architectural feature, structure, or part thereof, which is situated indoors or outdoors or is attached to, painted on, or displayed from any premises in order to advocate a person, position or cause, to direct attention to or announce an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. The Zoning Administrator shall determine whether objects, architectural features, or other design features that do not contain written text constitutes signage, including a trademark, service mark, or a logo particular to the business, institution, or organization.

Both permitted and prohibited signs shall further be classified by physical design or structure, and function or purpose based on the following:

(a) Abandoned Sign: A sign which advertises a business, lessor, service, owner, product, or activity which no longer operates at that location.

(a) Awning or Canopy Sign: A sign that is painted on or attached to the face of an awning or canopy or other fabric, plastic, or structural protective cover over a door entrance or window.

(b) Banner Sign: Any sign of lightweight fabric or similar material with no enclosing framework that is mounted to two or more supports or to a building at one or more edges. National flags, state or the official flag of any institution or business shall not be considered banners.

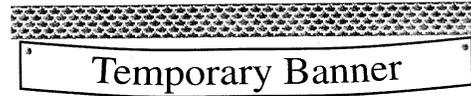


Figure 1. Banner Sign

(c) Building Marker/Cornerstone: Letters, words, or insignia cut into the building surface, or otherwise permanently mounted on the building, at the time the building was constructed to convey a memorial, the name of the building, address or date of construction, or similar message.

(d) Changeable Copy: A variable message sign composed of individual letters, number or symbols panel-mounted in or on a track system.

(e) Directional Signage:

Perimeter: Any sign which serves solely to provide special information such as direction, entrance/exit, or parking located at or near the public right-of-way, to direct or guide traffic from the street onto private property and which does not include business names, brand names, trademarks, logos, or information regarding product lines or service.

Interior: Any sign located within the interior of a lot which is designed solely to direct pedestrian and vehicular traffic to the proper destination within the premises and which is not oriented for viewing from the street or adjoining properties.

(f) Double-faced Sign: A sign with two faces back to back.

(g) Electronic Message Sign: A sign with a fixed or changing display/message composed of a series of lights that may be

changed through electronic means. Signs whose alpha numeric, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.

(h) Face of Sign: The area of a sign on which the copy is placed.

(i) Flashing Sign: A sign that contains an intermittent or flashing light source, or which includes the illusion of flashing or intermittent light by means of animation or an externally-mounted intermittent light source.

(j) Free Standing Sign: A sign that is supported by one or more columns, or other type of base, in or upon the ground.

(1) Ground Mounted Sign: A freestanding sign, other than a pole mounted or yard arm sign, independently supported by the ground or mounted on a decorative wall or fence, and 5 feet in height or less.



Figure 2. Ground Mounted Sign

(2) Pole Mounted Sign: A sign mounted on a ground mounted pole or other similar support so that the height of the sign is more than 5 feet in height.

(3) Yard Arm Sign: A sign mounted on a ground mounted pole or other similar support, and is 5 feet in height or less.

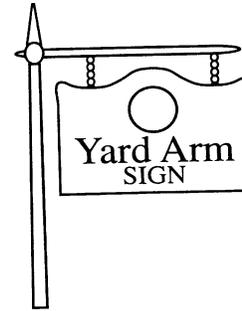


Figure 3. Yard Arm Sign

(k) Hand-decorated Sign: A variable message sign composed of individual letters, numbers or symbols hand-written or drawn onto a sign panel, including chalkboard signs.

(l) Identification Sign (currently Development Sign): A sign intended to identify the principal use of a lot, development, building or building unit according to the following:

(1) Business Identification Sign: A sign intended to announce or promote the use, activity, service or business on the premises of any business or commercial establishment, and which may include a directory of occupants.

(2) Development Identification Sign (currently Subdivision Sign): A ground mounted sign identifying the name and address of a completed residential subdivision or multi-family development.

(3) Institution Identification Signs: A sign displaying the name of the organization, activities or services occupying the premises of a public or semi-public use such as but not limited to: churches and other places of worship, community centers, hospitals, public or semi-public recreational facilities, or schools.

(m) Illuminated Sign: A sign with an artificial light source incorporated

internally or externally for the purpose of illuminating the sign.

(n) **Incidental Sign:** A sign that is located on private property which is generally instructional, contains no commercial message, and has a purpose secondary to the principal use of the site on which it is located. The types of signs included in this category are traffic control signs, hours or operation signs, open/close signs, parking or loading control signs, method of payment accepted, and signs indicating the location of telephones or emergency equipment.

(o) **Land Sales Sign:** A ground mounted sign erected in connection with the establishment of a subdivision and the sale of lots.

(p) **Marquee Sign:** A sign attached to or supported by a permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building.

(q) **Menu Board:** A sign used for drive-through facilities in association with a permitted use.

(r) **Mobile Signs:** Signs which are mounted on or attached to trailers, trucks, or other motor vehicles, or motor vehicles which are painted, decaled, or detailed to be an advertisement for goods or services, or to advertise a person, cause or event.

(s) **Name Plate:** A sign indicating only the name and address of the person, business, or title of the owner, renter, or lessee of the premises or building(s).

(t) **Nonconforming Sign:** A sign that was erected legally but which does not comply with subsequently enacted sign restrictions and regulations.

(u) **Off-Premise Sign:** An outdoor sign which directs attention to a business, use, service, activity, commodity, or profession which is not conducted, sold, or offered upon the same lot where such sign is located.

(v) **Owner:** For the purposes of this section, the owner of the property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the building department, for example, a sign leased from a sign company.

(w) **Pennant:** A triangular shaped flag.

(x) **Plaque:** A sign that is attached to a building, identifying such building's upper story occupants or street level occupants with no street frontage.

(y) **Political Sign:** A sign which does not advertise or promote a product, service, or commercial or institutional establishment and which either advocates a cause, position, or issue; or advocates the candidacy of a person or slate of persons running for elective office.

(z) **Portable Sign:** Any sign not permanently attached to the ground or other permanent structure which is typically of an A-frame style, which is designed to be moved or transported, including sandwich board signs.

(aa) **Project Construction Sign:** A sign which is located on a lot where construction is in progress which indicates the name of the project, architect, engineer, contractor, or other similar information concerning the project.

(bb) **Projecting Sign:** A sign which is suspended from, attached to, or supported by a building or structure and extending away from said building or structure.

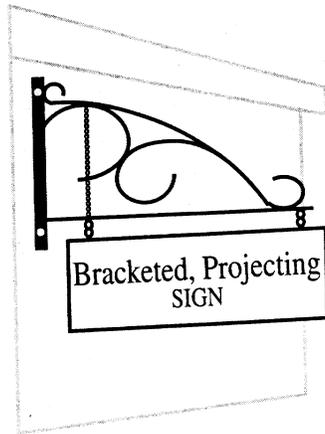


Figure 4. Projecting Sign

(cc) Public Regulation and Information: A sign erected by a public authority, utility, public service organization or private industry upon the public right-of-way or, when required by law, on private property and which is intended to control traffic, direct, identify or inform the public or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy. Such signs include “No Parking Fire Lane”.

(dd) Real Estate Sign: Any sign which advertises or announces the sale, rental or lease of the premises upon which the sign is located.

(ee) Roof Sign: A sign erected, constructed, and maintained upon or over the roof or parapet wall of any building, and having its principal support on the roof or walls of the building.

(ff) Rotating Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner.

(gg) Sandwich Board Sign: A free standing ground sign composed of two boards which contain a message and are set up in a triangle shape, hinged along the top. Such signs shall not exceed 24 inches in width per face and 36 inches in height, not including ‘legs’ which can be used to raise the sign off the ground, provided those legs do not exceed 6 inches in height. Such signs shall be constructed of

materials that present a finished appearance. Rough cut plywood and plastic are not acceptable materials. Such signs must have a frame of no less than 1 inch thick.

(hh) Streamer: A ribbon shaped or cord rope which may have pennants or banners attached which is stretched or hung between two or more supports.

(ii) Temporary Sign: A sign not intended for permanent installation and which is portable, excluding prohibited signs listed in Section 151.3004.

(jj) Under-Canopy Sign: A sign suspended beneath a canopy, ceiling, roof or marquee intended to be viewed by pedestrians from the sidewalk beneath the canopy, ceiling, roof or marquee.

(kk) Wall Sign: Any sign attached to or erected against the wall of a building or structure, and having the exposed face of the sign in a plane parallel to the plane of such wall.

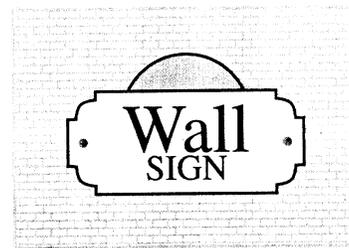


Figure 5. Wall Sign

(ll) Window Sign: A sign affixed to, displayed from, or installed inside a window for purposes of viewing from outside the premises, and which can include screening, tinting or interior shades designed to project an image or message. This sign does not include merchandise and other displays located in a window.



Figure 6. Window Sign

§ 151.3003 SIGNS EXEMPT FROM REGULATION.

The following signs shall be exempt from regulation under the Zoning Code.

- (a) Any public regulations and information sign and any other notice or warning required by a valid and applicable federal, state or local law, regulation or resolution or by order of the City Manager.
- (b) Any sign inside a building, not attached to a window or door that is not legible from a distance of more than 3 feet beyond the building in which such sign is located.
- (c) Works of art that do not include a commercial message.
- (d) Religious and other holiday lights and decorations containing no commercial message when displayed during the appropriate time of the year.
- (e) Flags of the United States, the state, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such.
- (f) Building address numbers provided they do not exceed 24" in height.

§ 151.3004 PROHIBITED SIGNS.

All signs not expressly permitted in this Chapter or exempt from regulation pursuant to Section 151.3003 are prohibited in the City of Montgomery. Such signs include, but are not limited to, the following:

- (a) Abandoned signs;
- (b) Signs which incorporate in any manner any flashing or moving lights;
- (c) Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of a driver, or by obstructing or detracting from the visibility of any traffic sign or control device on public streets or roads;
- (d) Signs containing any words or symbols that would cause confusion because of their resemblance to highway traffic control or direction signals;
- (e) Merchandise, equipment, products, motor vehicles or other items not themselves for sale and placed for attention getting, identification or advertising purposes;
- (f) Signs which are painted on or attached to any trees, utility poles, public benches, street lights or any other form of public property or in the public right-of-way;
- (g) Roof signs;
- (h) Off-premise signs;
- (i) Pennants, streamers or similar moving devices, air activated graphics or balloons.
- (j) Searchlights;
- (k) Pylon or pole mounted signs;
- (l) Mobile signs and portable signs on wheels, runners, casters, parked trailers, parked vehicles, or other mobile devices; Mobile signs in transit through the City are not prohibited, but such signs are

prohibited when parked or standing on public streets or private property unless shielded from public view.

- (m) Changeable copy signs;
- (n) Electronic message signs;
- (o) Dry-erase board signs; and,
- (p) Hand-decorated signs, except as provided in Section 151.3015(c)(2), 151.3014, 151.1208(d) and 151.1209(g).

§ 151.3005 COMPUTATION OF SIGN SIZE.

The following principals shall control the computation of sign area and sign height:

(a) Determining Sign Area or Dimension.

- (1) In the case of freestanding or projecting signs, the sign area consists of the entire surface area of the sign on which copy could be placed, and may include the surrounding frame structure, as provided herein.
- (2) For a sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, or an irregular shaped ground mounted sign, the area of the sign shall encompass a regular, or a combination of regular geometric shapes which form or approximate the perimeter of all the elements in the display. Letters of the same word or phrase are measured as a unit unless a letter, or symbol within a word, is intended as a trademark or other identifiable mark. If so, such trademark or identifiable mark shall be measured as a separate rectangular unit within the word or phrase. When separate elements are organized to form a single sign, but the elements are separated by open space, the area shall be calculated by determining the geometric form, or

combination of forms, which comprise all the display areas, including the space between the elements.

- (3) The supporting structure or bracing of a sign shall not be counted as part of the sign face area, unless such structure or bracing is made part of the sign’s message by inclusion of a symbol, logo, or other three-dimensional figure, in which case the smallest rectangle which can encompass the area of said symbol or figure shall be included as part of the total message area calculations.
- (4) The area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- (5) In the event there is a dispute in determining the sign area or any sign dimension, the Zoning Administrator shall have the final responsibility for making such determination.

(b) Determining Sign Height.

- (1) The height of a projecting sign shall be measured from the top most element of the sign to the ground below.
- (2) The height of a wall sign shall be measured from the finished grade at the building base below the sign to the top most element of the sign.
- (3) The height of a ground mounted sign shall be measured from grade level to the top of the sign. A ground

mounted sign on a man-made base, including a graded earth mound, shall be measured from the grade of the nearest street, drive or parking area.

(c) Determining Clearance of a Sign:

The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

(d) Determining Building Frontage and Building Unit. The building wall that faces the principal street or the building wall that contains the main entrance to the uses therein shall be considered the building frontage.

(1) The building frontage shall be measured along the front wall 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 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 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 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 District. Business identification signs for a project or development in the Office District 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 shall not be included in the sum of the maximum sign area set forth in § 151.3008 (b).

(c) Plaques. Plaques shall be permitted for upper story occupants of a multi-tenant retail building to be attached to the premises at the point of building access in compliance with the following:

- (1) One (1) identifying plaque permitted per occupant.
 - A. The maximum area of the plaque shall be 3 square feet.
 - B. The width of the plaque may not exceed the width of the surface of the attachment.
 - C. The centerline height of the plaque shall be no higher than five feet above the average grade level.

D. Where more than 1 plaque is placed at an entrance, the total group is to be related in an orderly and integrated manner in one or more vertical columns with common vertical centerlines. The horizontal centerline of each group must be 5 feet above the average grade level.

E. Plaques must be of cast metal or of any natural stone or wood.

- (2) The maximum permitted area for plaques shall not be included in the sum of the maximum sign area set forth in § 151.3008 (b).
- (3) No internally illuminated plaques shall be used.
- (d) Menu Boards. Menu boards used in association with drive-through facilities of a permitted use shall comply with the maximum area set forth in Schedule 151.3011; the area of which shall not be included in the sum of the maximum sign area set forth in § 151.3008 for business identification signs.
- (e) Directional Signs. Directional signs shall comply with the maximum sign area set forth in Schedules 151.3010 and 151.3011.

§ 151.3010 SCHEDULE OF MAXIMUM SIGN AREA AND HEIGHT REGULATIONS IN RESIDENTIAL DISTRICTS. Sign Type ^(a)	Single-Family and Multi-Family Districts	
	Area	Height
A. Nameplate	2 sq. ft.	NA
B. Permanent Residential Development Identification Sign	25 sq. ft. ^{(b)(c)}	5 ft.
C. Institution Identification Signs	25 sq. ft. ^(d)	5 ft.
D. Directional Signs	4 sq. ft.	4 ft.
E. Incidental Signs	1 sq. ft. ^(e)	NA
F. Temporary Signs 1. Project Construction/ Land and Multi-Family Sales Signs (Commercial)	50 sq. ft. ^(g)	6 ft
2. Project Construction/Land Sale Signs Single Family Residential Lot	8 sq. ft.	4 ft.
3. Garage Sale Signs	4 sq. ft. ^{(c)(f)}	4 ft.
4. Real Estate	4 sq. ft. ^{(c)(f)}	4 ft.
5. Special event signs for institutional uses	25 or 50 sq. ft ^(h)	5 ft.
6. Political Signs	4 sq. ft. ^{(c)(i)}	4 ft. (i)

Notes to Schedule 151.3010:

NP = Not permitted sq. ft. = square feet
NA = Not applicable ft. = feet

- (a) No sign type listed in Schedule 151.3010 shall be permitted to be internally illuminated in any Residential District.
- (b) In compliance with Section 151.3007(a).
- (c) Maximum of 2 faces per sign. Maximum sign area permitted per face.
- (d) Only one sign permitted, may be either a ground mounted or wall sign, in compliance with Section 151.3007(b).
- (e) Considered an identification sign unless exempt pursuant to Section 151.3009. Area limitation only for incidental signs located in a window.
- (f) In compliance with Section 151.3015(b).
- (g) See also Section 151.3015(a).
- (h) Not more than 25 sq. ft per sign face with a maximum of 2 sides permitted for yard signs, or not more than 50 sq. ft. per sign face with a maximum of 1 side permitted for banners. Temporary window signs cannot take up more than 50% of the area of the window pane it is placed on. See also Section 151.3015 (b)(2).
- (i) Individual political signs in residential districts shall be limited in size to 4 sq. ft. per side, provided however, that on lots with greater than 150 linear feet of street frontage along any one public street on which the property is located, larger signs of up to 25 sq. ft. per side (maximum 2 sides) are permitted up to a height of 6 ft., provided however, that the total square footage for all political signs located on a residential lot shall not exceed a total of 50 sq. ft. [See Section 151.3005(a)(4) for sign area calculation]

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

Sign Type	Office Districts	Retail Business Districts	Old Montgomery District
(a) Name Plate	2 sq. ft.	2 sq. ft.	2 sq. ft.
(b) Building Marker	6 sq. ft.	6 sq. ft.	6 sq. ft.
(c) Residential Development Identification Signs	25 sq. ft. ^{(a)(b)}	NP	25 sq. ft. ^{(a)(b)}
(d) Institution Identification	(c)	(c)	(c)
(e) Business Identification Signs ^(d)			
(1) Attached to Buildings	(d)	(d)	(d)
(2) Ground Mounted or Yard Arm Signs	30 or 36 sq. ft. ^{(b)(e)}	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	20% of window area ^(f)
(d) Plaques	NP	3 sq. ft. ^(g)	3 sq. ft. ^(g)
(e) Under-Canopy Signs	NP	2 sq. ft. ^{(b)(h)}	2 sq. ft. ^{(b)(h)}
(f) Directional Signs: Perimeter Interior	4 sq. ft. 8 sq. ft.	4 sq. ft. 8 sq. ft.	
(g) Incidental Signs	2 sq. ft. ⁽ⁱ⁾	2 sq. ft. ⁽ⁱ⁾	1 sq. ft. ⁽ⁱ⁾
(h) Menu Boards	NP	20 sq. ft.	20 sq. ft.
(i) Temporary Signs, except as otherwise expressly permitted below.	8 sq. ft. ^(j)	8 sq. ft. ^(j)	8 sq. ft. ^(j)
(1) Project Construction/ Land Sales Signs	50 sq. ft. ^(j)	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)}	25 or 50 sq. ft. ^{(j)(k)}
(3) Political Signs	4 sq. ft. ^(l)	4 sq. ft. ^(l)	4 sq. ft. ^(l)

Notes to Schedule 151.3011:

NP = Not permitted. sq. ft. = square feet

- (a) One per street entrance.
- (b) Maximum of 2 faces per sign. Maximum sign area permitted per face.
- (c) Shall be permitted the allowable sign area for business identification signs for the district in which the use is located. See also § 151.3008.
- (d) In compliance with the maximum area requirements set forth in §151.3008.
- (e) Maximum of 30 square feet per side if internally illuminated and 36 square feet per side if externally illuminated or not illuminated
- (f) In compliance with § 151.3014.
- (g) In compliance with the requirements set forth in § 151.3009(c).
- (h) In compliance with the requirements set forth in § 151.3009(b).
- (i) Considered an identification sign unless exempt pursuant to § 151.3009(a). Area limitation only for incidental signs located in a window.
- (j) In compliance with § 151.3015.
- (k) Not more than 25 square feet per sign face with a maximum of 2 sides permitted for yard signs, or not more than 50 square feet per sign face with a maximum of 1 side permitted for banners. Temporary window signs cannot take up more than 50% of the window pane it is placed on.
- (l) Individual political signs in commercial districts shall be limited in size to 4 sq. ft. per side, provided however, that on lots with greater than 150 linear feet of street frontage along any one public street on which the property is located, larger signs of up to 25 sq. ft. per side (maximum 2 sides) are permitted up to a height of 6 ft., provided however, that the total square footage for all political signs located on a commercial lot shall not exceed a total of 50 sq. ft. (See Section 151.3005(a)(4) for sign area calculation)

151.3012 REGULATIONS FOR PERMANENT GROUND MOUNTED SIGNS.

Ground mounted signs shall be permitted in compliance with the criteria set forth in Section 151.3016 and the following regulations:

(a) Ground Mounted Residential Development Identification Signs.

A ground mounted residential development identification sign shall be permitted for a residential development in compliance with the following requirements:

- (1) Maximum Number of Ground Mounted Signs. A maximum of two signs shall be permitted per development, one per street entrance, part of a decorative wood, brick, stone, or masonry wall or of some

similar design compatible with the character of the neighborhood.

(2) Minimum Setback from Street.

Such signs shall be located no closer than 15 feet from the back of the curb or two feet beyond the right of way, whichever is greater except as otherwise permitted in subsection (3) below, and shall be placed so as not to obstruct sight lines for vehicles or pedestrians.

(3) Signs Located in the Right-of-Way.

A ground mounted sign may be placed in the right-of-way provided such sign shall be located on the center island of a boulevard entrance, placed no closer than 25 feet to the intersecting street's right-of-way. Such signs are subject to

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, L-B and G-B 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 District, 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, 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, L-B, and G-B 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, L-B, and G-B Districts 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, and G-B Districts shall be erected in a landscaped setting and shall not be permitted on sidewalks, drives or in parking lots.
- (8) 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 (7) above.

§ 151.3013 BONUS SIGN AREA PERMITTED.

Business identification signs in the “O”, “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 with the maximum percent coverage as outlined in §151.3011.
- (d) Permanent window signs, excluding incidental signs as outlined in §151.3009(a) require a permit from the Community Development Department and will be

counted toward the total sign allowance as outlined in §151.3010 and 151.3011.

(e) Permanent and temporary hand decorated window signs may not exceed two (2) square feet and may not be displayed simultaneously with a hand decorated sandwich board sign.

§ 151.3015 SUPPLEMENTAL REGULATIONS FOR TEMPORARY SIGNS.

The intent and purpose of the regulations governing temporary signs are to allow signs for the occasional advertisement for the sale of a product or service, to promote community events, or to advocate a political candidate or issue while preserving the residential character of the Montgomery community. Temporary signs are by their definition signs which are not displayed on a continuous, permanent basis. Signs which are displayed on a property without interruption are permanent signs governed by other restrictions within the Code. Temporary signs are intended to advertise a specific event or occasion, or to advocate a candidate or cause. The City does not intend to unfairly limit any property owner’s First Amendment right to free expression, but the City intends such restrictions to balance the property owner’s rights against the community’s interests to preserve and protect safe pedestrian and vehicular traffic within the community, preserve the character and integrity of the residential community, and to prevent waste and debris. With this intent in mind, the following rules are adopted:

(a) Materials and Construction

(1) Temporary signs must be durable and water resistant, constructed of sturdy material such as light weight wood and paperboard with a wire or plastic frame so as not to litter or waste during the period of display

or during inclement weather. Any sign which has deteriorated to cause litter or waste, or which presents other unacceptable risks to public safety, shall be repaired, removed and/or replaced.

(2) Temporary signs shall be fastened or anchored sufficiently, whether attached to the building or positioned in the ground, but shall not be attached to light fixtures, landscaping features, fences, vehicles or similar structures.

(3) Temporary signs may not be illuminated.

(b) Location

(1) Temporary signs may not be erected within the street lawn which encompasses the area between the back of the street curb and any public sidewalk, and in areas where there is no public sidewalk within thirteen (13) feet of the back of the street curb from the edge of the street pavement if there is no curb. This limitation preserves the safe travel upon the streets of the City, preserves the City right-of-way, and in areas where right-of-way is not easily defined, provides an area where the property owner or a person erecting a temporary sign can know clearly where a temporary sign can and cannot be located. Additionally, temporary signs may not be posted in such a position which impairs the line of vision of motorists traveling the street or pedestrians crossing streets or alleyways, or in such a place which otherwise causes an unacceptable risk to public safety.

(c) Project Construction/Land Sales Signs. Project construction sign and land sales signs shall be permitted in all districts in compliance with the following:

- (1) There shall not be more than two project construction signs and/or two land sales signs per residential subdivision, single-family detached cluster development, single-family attached or multi-family project, or lot proposed for nonresidential development. Such signs shall be erected only upon the property for sale or being developed.
- (2) The sign shall be erected and maintained on a lot only during the period of time that the project is under construction or the parcel is up for sale, rent, or lease. The sign shall be removed within 14 days of commencement of the intended use.
- (3) Such signs shall be no closer than 10 feet to any street right-of-way line or side lot line.
- (4) Such signs shall not be illuminated.
- (5) Project construction signs and land sales signs shall not exceed a height of 6 feet.

(d) Garage Sale Signs. One temporary sign promoting a garage sale or other similar household sale may be permitted, provided it is posted on private property for a period not to exceed 72 hours, no more than two times in a year.

(e) Special Event Signs. Property owners in a business or office district, or institutions such as churches and schools in a residential district, may erect one temporary yard sign or banner attached to the building on the property for the purpose of announcing special events, the opening of a business, community events, community markets, programs or festivals up to sixty (60) days per year, but not more than fourteen (14) days for each event, business opening, program or festival. Such signs shall be removed within two (2) days of the completion of the event, program, business opening or festival. Such special even signs shall not

exceed twenty-five (25) square feet per side for double-sided signs, or fifty (50) square feet for banners with one side. Such temporary signs require a permit from the City.

(f) Sandwich Board Signs. For the purpose of attracting pedestrian traffic, sandwich board signs shall be permitted in the GB, LB, OMG, and OM Districts to announce special events or daily specials for a business on the premises in compliance with the following:

- (1) In the OM District, not more than one (1) sandwich board sign shall be permitted per business. A sandwich board sign may be placed in front of the building and displayed 365 days per year. However, in the OM District, design criteria place the sidewalk within the right-of-way and front the building to the sidewalk leaving no front yard, as a result such signs may be placed on the sidewalk even if it encroaches upon the public right of way, provided an unobstructed walkway with a minimum of five (5) feet is reserved for public passage. Sandwich board signs must be removed from display at the close of each business day, or no later than 10:00 p.m. The sign may contain a message per face, which may be permanently printed on the sign or be a hand decorated sign. The sign must be consistent with the material and color requirements of design guidelines for the Heritage Overlay District, as outlined in Chapter 151.14. The signs may not be illuminated.
- (2) In the GB, LB, and OMG Districts, sandwich board signs shall meet the requirements for all other temporary signs. Hand decorated sandwich board signs are permitted, provided

they meet the following additional requirements:

A. Such signs must be placed on a paved pedestrian surface within ten (10) feet of the entry door to the business for which the sign provides an announcement or message.

B. To avoid visual clutter, the maximum outside dimension of such signs shall not exceed 24 inches in width and 36 inches in height per face, not including 'legs' which can be used to raise the sign off the ground, provided those legs do not exceed six inches in height.

(g) Real Estate Sales Signs. Each property owner is permitted to erect one (1) real estate sales sign per street front per property on more than forty-eight (48) inches in height, and no greater than four (4) square feet per side for double-sided signs, for such period of time as is reasonable necessary to advertise the sale or lease of such real estate. Such signs shall be removed within two (2) days of the closing of the sale or lease of such real estate. Property owners are permitted erect one (1) additional sign per property per street front no greater than eight (8) square feet per side for double-sided signs advertising an open house for the opportunity to visit and tour such property which is offered for sale or lease. Such open house signs may be erected seventy-two (72) hours in advance of the scheduled open house and must be removed within two (2) hours of the close of the open house. Open house signs shall be erected upon the property which is advertised for sale. Open house signs which are posted off site may only be posted off site with the permission of the property owner upon whose lot the open house sign is displayed.

(h) Construction Signs. Construction signs advertising a remodeling or reconstruction of a particular property may be displayed on site only during the period of time such reconstruction or remodeling is being completed. Such signs must be removed within two (2) days of the completion of such construction. Such signs may not exceed forty-eight (48) inches in height and are restricted to eight (8) square feet per side for double-sided signs.

(i) Non-commercial Signs. Signs which advertise the sale or lease of a product or service are commercial signs governed herein by the regulation of permanent signs or special event signs. Non-commercial signs are those signs which announce a community event or festival. Each property owner may erect a non-commercial sign upon such property for the purposes outlined herein for a period not to exceed one hundred thirty-five (135) days. Such signs after forty-five (45) days must be removed or replaced to prevent waste, litter or debris. Such sign must be removed earlier if it has deteriorated to debris, litter or waste. Such temporary non-commercial signs maybe no higher than forty-eight (48) inches, and may not exceed eight (8) square feet per side for double-sided signs. Each property owner is permitted up to twenty-four (24) square feet of temporary signs during the designated period provided; however, that corner lots may display two (2) additional temporary signs not to exceed eight (8) square feet per side for double-sided signs, and lots with more than one hundred (100) linear feet fronting on a single street may display one (1) additional temporary sign not to exceed eight (8) square feet per side for double-sided signs for each additional fifty (50) linear feet of street frontage.

(i) Removal to Storage. After the period of time outlined above for the display of temporary signs, such

temporary signs must be removed to storage and may not be displayed or stored on site in such a manner to continue the public display of such sign.

(j) Political Signs. Political signs are temporary signs designed for the purpose of advertising or promoting a candidate for office, an issue standing at election or advocating a cause.

(1) Political signs are permitted in all districts as temporary signs as noted in Sections 151.3010 and 151.3011. Such signs must be constructed in accordance with Section 151.3015(a) and appropriately located as noted in Section 151.3015(b).

(2) While case law does not permit time limitations on the display of political signs, property owners should repair, remove or replace such signs periodically to prevent such temporary signs from deteriorating to waste.

(3) Property owners, candidates and advocates for a ballot issue are encouraged to remove such signs after an election to prevent unnecessary clutter or waste.

(4) Although a specific permit is not required before erecting a political sign, candidates or committees advocating a cause or issue are encouraged to register contact information with the office of the Zoning Administrator so that signs which deteriorate to waste and must be removed or signs posted in the right-of-way may be removed to storage and allow appropriate contact with the candidate or committee.

(k) Abatement.

(1) In addition to any fine which may be assessed for a violation of this

Ordinance, any temporary sign placed in a prohibited area or upon public property owned by the City, or in such a position which otherwise presents an unacceptable risk to public safety may be removed by the City or its designated representative without notice to the owner of the sign. If the sign or sign materials have deteriorated to waste, debris or litter, the sign and its materials may be disposed of immediately by the City. Any other sign which has been removed which has not wasted shall be removed by the City to a place of safe storage at the City Service Department where it shall remain for a period of ten (10) days after written notice has been mailed by ordinary U.S. mail to the owner (if such owner and the owner's address can be identified), or notice may be provided by posting the notice on the property from which the sign was removed if the Zoning Administrator reasonably believes that the owner of the property in question is the owner of or has control over the posting of the violating sign. After the ten (10) day period has expired, from either mailing notice, posting the notice or the date such sign was taken into storage if the owner or owner's address cannot be identified, such sign may be disposed of by the City. During such ten (10) day period the sign owner may retrieve such sign from the City by exhibiting evidence of the ownership of such sign and upon payment of an administrative abatement fee to the City in the amount of Fifty Dollars (\$50.00) per sign, such fee to cover the costs incurred by the City for abatement and storage of the sign.

(2) In addition to any fine which may be assessed against a property owner for violation of this section, a non-complying temporary sign may be removed by the City, or its representative, twenty-four (24) hours after written notice to abate such sign has been presented to the property owner if such sign remains in non-compliance after such twenty-four (24) hour period. The City, or its representative, shall remove such non-complying sign to a place of safe storage at the City Service Department where it shall remain for a period of ten (10) days. After the ten (10) day period has expired, such sign may be disposed of by the City. During such ten (10) day period the business owner or property owner which has erected such temporary sign from the City by exhibiting evidence of the ownership of such sign, and upon payment of an administrative abatement fee to the City in the amount of Fifty Dollars (\$50.00) per sign, such fee to cover the costs incurred by the City for abatement and storage of the sign.

(3) Written notice of abatement may be given to the owner of the property upon which a non-complying sign has been posted by any of the following means:

- A. Personal delivery to the property owner;
- B. Posting notice of abatement in a conspicuous place upon such property where the non-complying sign is located;
- C. Regular mail notice addressed to the owner at the property address or the address of the owner as listed in records of the Hamilton County Auditor. If the notice is served by ordinary mail, the period allowed

for abatement shall begin to run three (3) days after the notice is mailed.

§ 151.3016 CRITERIA FOR THE DESIGN, CONSTRUCTION AND LOCATION OF PERMANENT SIGNS.

In addition to ensuring compliance with the numerical standards of these regulations, the Planning Commission or Zoning Administrator, when applicable, shall consider the proposed general design, arrangement, and placement of the sign as well as the appropriateness of the proposed sign in relationship to other signs and other structures both on the premises and in the surrounding areas, and shall only approve signs that are consistent with the intent, purposes, standards, and criteria of these sign regulations. Specific standards for determining the appropriateness of the sign shall include, but not be limited, to the following:

- (a) There shall be not more than two styles nor more than 3 sizes of lettering used for any sign, including characters or trademarks used for identification.
- (b) The number of items, letters, symbols and shapes shall be consistent with the amount of information which can be comprehended by the viewer, reflect simplicity, avoid visual clutter and improve legibility.
- (c) The shape of the sign shall be simple, and the sign should be consolidated into a minimum number of elements.
- (d) A ratio between the message and the background shall permit easy recognition of the message.
- (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 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. These regulations shall not apply to seasonal holiday display lighting.

(2) Signs located within the Residential Districts and Old Montgomery District shall be externally illuminated only, except for

permanent window signs in the Old Montgomery District, which may utilize a continuous light source in compliance with subsections A-G under Section 151.3016(m)(1) above, as applicable.

- (n) 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 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 District and 8” from the building wall to which it is attached in the Office 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.
 - (2) There is no enlargement or increase in any of the dimensions of the sign or its structure.

(3) There is no change in the sign message or its design.

(4) The sign is accessory to a legally permitted, conditional or nonconforming use.

(c) If a permanent sign is deemed by the Zoning Administrator to be in an unsafe condition, the owner of the business shall be immediately notified, in writing, and shall, within seven (7) days of such notification, correct such unsafe condition or remove the sign. The time may be extended up to twenty-one (21) days by written request to the Zoning Administrator if the owner provides evidence that it is not an immediate safety risk and a contract to repair/replace has been entered. The allowable time may be reduced if the sign or sign condition poses unreasonable risk to public health and/or safety. If the correction has not been made within the time allowed, the Zoning Administrator may remove, or cause such unsafe sign to be removed, repaired or maintained at the expense of the property owner or lessee, sign owner or sign lessee. If the amount owed for the removal of such sign is not paid within 30 days of the notice, it shall become an assessment upon a lien against the property of the sign owner, and will be certified as an assessment against the property together with a 10 percent penalty for collection in the same manner as real estate taxes. Written notice of abatement may be given per the process outlined in § 151.3015(e)(2)(ii).

(d) In cases of emergency, the Zoning Administrator may cause the immediate removal of a dangerous or defective permanent sign without notice. Signs removed in this manner must present a hazard to the public safety as defined in the Ohio Basic Building Code or the City of Montgomery Traffic Code.

§ 151.3019 ADMINISTRATION PROCEDURES.

(a) Signs Requiring a Permit. The following signs shall require a permit prior to the erection or alteration of signs.

(1) The Planning Commission, except as otherwise required in subsection 151.3019(e), shall review and act on sign applications for the following signs according to the design and construction criteria set forth in Section 151.3016 and the review criteria for development plan review set forth in Chapter 150.1410. Signs in the Heritage Overlay District shall be processed according to the procedures of §150.1206 or §151.1207, as applicable.

- A. Business identification signs;
- B. Residential development identification signs;
- C. Identification signs for community facilities, institutions, and entertainment or recreational uses in residential districts;
- D. Permanent window signs; and
- E. Menu Boards, except those defined as sandwich boards per Section 151.3015 (c)(2).

(2) The Zoning Administrator shall review and act on an application for the following signs according to the design and construction criteria set forth in Section 151.3016. However, the Zoning Administrator may forward such application to the Planning Commission for their review and comment.

- A. Building markers;
- B. Directional signs;
- C. Temporary signs for uses other than single family and two-family dwellings, except as required in subsection 151.3019(a)(2)D below;
- D. Plaques; and

E. Incidental signs, except when located in a window.

(b) Signs Not Requiring Permit. The erection of the following signs shall not require a permit provided that all applicable regulations of this Chapter are complied with:

- (1) Temporary signs for single-family and two-family dwellings. *See note regarding Political Signs, Section 151.3015(j)(4).*
- (2) Nameplates;
- (3) Incidental signs located in a window, including signs promoting community events that do not exceed 18" x 24".
- (4) Holiday displays and greetings which display no commercial message; and
- (5) Internal signs not intended to be viewed from public streets and located so as not to be visible from public streets or adjacent properties.

(c) Sign Concept Plan. The Planning Commission may approve basic sign parameters that set forth the location, size and style of signs to be used within a project, whether for a single occupancy or multiple occupancy building or development. Such sign parameters may be established when the Planning Commission and/or Council reviews development plans for new buildings or at the time a specific sign application is made for an identification sign for an existing building. Whenever the Planning Commission has approved such sign parameters, the Zoning Administrator shall be authorized to review and approve any subsequent sign application submitted for the development, or a tenant of the development, that complies with such sign parameters.

(d) Application Requirements. An application for a sign permit shall be made

to the Zoning Administrator on the form provided. The application shall present the sign in a manner which best illustrates how the sign shall be experienced by the public after it is erected on the site. Specifically, the application shall include:

- (1) A complete site plan or photograph showing the location of the sign and its relationship to the building, the locations and square footage areas of all existing signs on site, the adjacent parcels and parking lots, drives and sidewalks;
- (2) Three sets of detailed drawings showing the design of the sign, including size, content, style of lettering, logo and other graphic features, colors of the applied lettering and background, the materials of the sign and the frame or structure, and the method of illumination.
- (3) For applications which require review and approval by Planning Commission, fifteen sets of items #1 & #2 above must be submitted.
- (4) Construction, erection or fastening details.
- (5) A permit fee for each sign application, pursuant to the current fee schedule.

(e) Modification to Existing Sign. When a modification is proposed to an existing sign that is already in compliance with an approved development plan, the Zoning Administrator shall review and act on the application in compliance with this Section. However, the Zoning Administrator may forward such application to the Planning Commission for their review and comment.

§ 151.3020 REGULATIONS FOR NONCONFORMING SIGNS.

(a) Maintenance of Nonconforming Signs. Nonconforming signs shall be

maintained in good condition pursuant to Section 151.3018.

(b) Legal Nonconforming Status. The burden of establishing that a sign is a legal nonconforming sign shall, in all cases, be upon the owner of such sign.

(c) Alteration and Removal of Nonconforming Signs.

(1) Nonconforming signs shall be removed and any subsequent modification or replacement, excluding maintenance pursuant to Section 151.3018, shall conform to all requirements of this Chapter:

A. When the sign is damaged to a degree greater than 50% of the estimated replacement value;

B. When the use which the nonconforming sign is accessory to is vacant for 90 consecutive days;

C. When the sign is altered in any way in structure or size;

D. When the sign is relocated;

E. When the sign is replaced;

F. When the sign is repainted, excluding normal repainting or touch-up;

G. Following seven (7) years from the date of notice to the property owner of the amendment of this chapter which made the sign nonconforming.

(2) A nonconforming sign shall not be altered, modified or reconstructed other than to comply with this Chapter except:

A. When the existing use has new ownership which results in a change in the name of the use or business on the property;

B. When the space is re-occupied by a similar use and the new occupant requires no external building or site renovation; or

C. An existing sign pursuant to this subsection may be changed by replacing a sign panel. Such alterations shall not require changes to the structure, framing or erection or relocation of the sign unless such changes conform to this Chapter.

§ 151.3021 INSPECTION UPON COMPLETION.

(a) Any person installing, altering, or relocating a sign for which a permit has been issued shall notify the Zoning Administrator upon completion of the work. The Administrator may require a final inspection, including an electrical inspection and inspection of footings on ground mounted signs.

(b) The Zoning Administrator may require, upon issuance of a permit, that he/she be notified in writing for inspection prior to the installation of certain signs.

§ 151.3022 INDEMNIFICATION AND INSURANCE.

All persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way or property shall agree to hold harmless and indemnify the City, its officers, agents, and employees, against any and all claims resulting from such work or the placement of such sign(s) insofar as this Code has not specifically directed the placement of a sign. The City may also require sufficient insurance from such persons to indemnify the City against any loss or claim by a third party.

**Chapter 151.32
Off-Street Parking and Loading Regulations**

<p>151.3201 Purpose.</p> <p>151.3202 Parking facilities required.</p> <p>151.3203 Units of measure.</p> <p>151.3204 Off-street parking standards.</p> <p>151.3205 Allowance for shared parking.</p> <p>151.3206 Specific standards for the Old Montgomery District.</p> <p>151.3207 Off-street waiting spaces for drive-thru facilities.</p> <p>151.3208 Parking spaces for persons with disabilities.</p>	<p>151.3209 Parking design standards.</p> <p>151.3210 Regulations for access drives.</p> <p>151.3211 Off-street loading requirements.</p> <p>151.3212 Improvement and maintenance standards.</p> <p>151.3213 Parking lot landscaping and screening.</p> <p>151.3214 Development plan review.</p>
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§ 151.3201 PURPOSE.

Off-street parking regulations are established to achieve, among others, the following:

- (a) To relieve congestion so streets can be utilized more fully for movement of vehicular traffic;
- (b) To promote the safety and convenience of pedestrians and shoppers by separating parking areas and extensive car movements in the vicinity of pedestrian ways;
- (c) To protect adjoining residential neighborhoods from on-street parking; and
- (d) To establish reasonable controls on the amount of impervious surface coverage on a property;
- (e) To provide for the effective management of stormwater runoff from off-street parking; and
- (f) To promote the general convenience, welfare and prosperity of residential, business, and service developments which depend on off-street parking facilities.

§ 151.3202 PARKING FACILITIES REQUIRED.

Accessory off-street parking facilities, including access driveways, shall be provided prior to the occupancy of any building or use. Facilities shall be provided for the entire building or use in accordance with the regulations contained in this Chapter whenever:

- (a) A building is constructed or a new use is established.
- (b) The use of an existing building is changed to a use requiring more parking facilities.
- (c) An existing building is altered and there is an increase in seating capacity, floor area of the building, or number of employees.

All off-street parking facilities, or those required as accessory to a use of a proposed or altered building, shall continue unobstructed in operation and shall not be reduced below the required size as long as the principal use remains, unless an equivalent number of spaces are provided for said use in another approved location.

§ 151.3203 UNITS OF MEASURE.

In computing the number of parking spaces required by this Code, the following rules shall apply:

(a) Floor Area. Where floor area is designated as the standard for determining parking space requirements, gross floor area shall be used for all land uses.

(b) Seats. The number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs or similar seating facilities.

(c) Employees. Where employees are the standard for determining parking space requirements, employees shall mean the maximum number of employees or contract workers on any two successive shifts.

(d) Fractional Numbers. Where the computation results in a fractional unit, one additional off-street parking space shall be provided.

(e) Parking for Mixed Uses. A building or group of buildings containing 2 or more uses, operating normally during the same hours, and which have different off-street parking requirements, may jointly provide spaces for not less than the sum of the spaces required for each use.

§ 151.3204 OFF-STREET PARKING STANDARDS.

The number of off-street parking spaces for each facility or use shall be determined by application of the standards noted in Schedule 151.3204. For a use not specified in this Schedule, the Planning Commission shall apply the standard for a specified use that the Commission determines to be most similar to the proposed use.

**Schedule 151.3204
Required Off-Street Parking Spaces**

Principal Building or Use	Basis for Standard	Minimum Spaces Required^(a)	Maximum Spaces Permitted	Total Spaces with Earned Bonus Spaces^(b)
Residential Uses				
Dwelling, single-family unit (detached or attached)	Each Unit	2 enclosed	No restriction	
Dwelling, two-family	Each Unit	2 enclosed	No restriction	
Dwelling, multiple	Each Unit	2 unenclosed	3 unenclosed	4 unenclosed
Bed and Breakfast	Each sleeping room/suite	1 + requirement for dwelling unit	1.50 + requirement for dwelling unit	2 + requirement for dwelling unit
Independent senior living facility	Each Unit	2	2.50	3
Assisted living/congregate	Each Unit	0.30 + 1 per employee on maximum shift	0.50 + 1 per employee on maximum shift	1 + 1 per employee on maximum shift
Nursing homes	Beds	0.33	0.50	1
Community Facilities/Schools				
Convention, exhibition or meeting hall (without fixed seats)	100 sq. ft. of Floor Area	1	1.30	1.60
Day care center (child and adult)	Per Employee	1 + 1 per 5 persons enrolled at capacity	1 + 1 per 4 persons enrolled at capacity	1 + 1 per 3 persons enrolled at capacity
Library, museum, art gallery or similar public building	100 sq. ft. of Floor Area	0.33 + 10 spaces for first 2,000 ft ²	0.65 + 10 spaces for first 2,000 ft ²	1 + 10 spaces for first 2,000 ft ²
Places of worship	Seats	0.33	0.40	0.50
Elementary or Junior High School	Each classroom	2 + 0.25 per seat in auditorium	2 + 0.33 per seat in auditorium	2 + 0.50 per seat in auditorium
High School	Every employee	0.50 + 0.25 per seat in auditorium + 0.10 per student	0.75 + 0.33 per seat in auditorium + 0.10 per student	1 + 0.50 per seat in auditorium + 0.10 per student
College, University	Every employee	0.50 + 0.25 per seat in auditorium + 0.25 per student	0.75 + 0.33 per seat in auditorium + 0.25 per student	1 + 0.50 per seat in auditorium + 0.25 per student
Commercial/trade school (excluding outdoor activities)	Every employee	0.50 + 0.50 per student	0.75 + 0.75 per student	1 + 1 per student

Principal Building or Use	Basis for Standard	Minimum Spaces Required ^(a)	Maximum Spaces Permitted	Total Spaces with Earned Bonus Spaces ^(b)
Office, Professional, Medical Facilities				
Administrative, executive and professional offices, banking and financial institutions (excluding medical and dental)	100 square feet of Floor Area	0.29	0.45	0.57
Medical and dental offices and clinics	1,000 sq. ft. of Floor Area	5	6.50	8
Hospitals	Per Bed	2.50	3.50	4.50
Outpatient (Hospital)	Per exam/treatment room	1.50 + 1 per employee on maximum shift	2 + 1 per employee on maximum shift	2.50 + 1 per employee on maximum shift
Research or testing laboratory	100 square feet of Floor Area	0.25	0.33	0.40
Retail / Service Uses				
Retail sales or personal service establishments in completely enclosed buildings (except as otherwise specified below)	100 sq. ft. of Floor Area	0.40	0.5	0.66
Animal hospital or clinic; grooming facility (excluding open kennels or open runs)	100 sq. ft. of Floor Area	0.25 + 0.50 per employee	0.30 + 0.75 per employee	0.35 + 1 per employee
Funeral homes, mortuaries	100 square feet of Floor Area	2 + 1 for each vehicle maintained on the premises	3 + 1 for each vehicle maintained on the premises	4 + 1 for each vehicle maintained on the premises
Greenhouse, nurseries	100 square feet of Floor Area	0.25	0.30	0.35
Hotel, motel	Per room	1.20	1.35	1.50
Eating Establishments				
Restaurant – Sit down without drive-through	1,000 square feet of gross leaseable area	15	25	30
Restaurant – Sit down with drive-through	1,000 square feet of gross leaseable area	12	15	18
Restaurant – Carry-out only	1,000 square feet of gross leaseable area	5	6.25	7.50
Automotive / Transportation				
Automobile, truck, trailer sales and rental	100 sq. ft. of Floor Area of sales room	0.25 + 1 space for every service stall	0.38 + 1 space for every service stall	0.50 + 1 space for every service stall

Principal Building or Use	Basis for Standard	Minimum Spaces Required ^(a)	Maximum Spaces Permitted	Total Spaces with Earned Bonus Spaces ^(b)
Automobile, truck, trailer sales and rental	100 sq. ft. of Floor Area of sales room	0.25 + 1 space for every service stall in service area	0.38 + 1 space for every service stall in service area	0.50 + 1 space for every service stall in service area
Vehicle repair facility	Every service bay	2 + 1 for every employee	2.50 + 1 for every employee	3 + 1 for every employee
Car Wash	Each Employee	1	1	1
Gasoline Station	Each Employee	1	1	1 + applicable retail space
Entertainment / Recreation				
Bowling alley	Each Lane	4	5	6
Golf course (9 holes or more)	Each Green	8	9	10
Health, fitness facility	1,000 square feet of exercise area (includes locker and equipment rooms)	4	6	8
Indoor theater or auditorium (except school auditorium), sports arena, stadium, gymnasium	Each Seat	0.30	0.40	0.50
Private clubs, lodges	100 sq. ft. of Assembly Room	1	1.25	1.50
Swimming pools, public or private (not associated with residences)	100 sq. ft. of defined active recreation area	2	2.25	2.50
Tennis courts	Per Court	4	5	6

NOTES TO SCHEDULE 151.3204

- (a) A minimum of five (5) spaces is required for each facility other than a single-family detached, single-family attached or two-family dwelling.
- (b) Bonus spaces shall be approved by the Community Development Director or the Planning Commission when part of a Development Plan. Bonus spaces shall be in a pervious material.
- (c) For the purposes of this Section, a shopping center shall include one or more multi-tenant building(s) and or group of buildings where the required parking spaces are provided in a shared parking lot.

§ 151.3205 ALLOWANCE FOR SHARED PARKING.

The Planning Commission and/or Council may accept a development plan that satisfies the off-street parking requirements by use of off-site shared parking with the City or another non-residential user. A copy of the proposed

off-site agreement must be submitted with the application for development plan approval. The Director of Law must review and approve the agreement. In determining whether to accept such proposed plan, Planning Commission and/or Council may consider the proximity and accessibility of the off-site

location to the proposed development site, the hours of operation of the two users, the number of spaces available and required for each business, and the compatibility of uses.

§ 151.3206 ALLOWANCE FOR PARKING RESERVES

The Planning Commission may allow the applicant to delineate a number of the minimum parking spaces required by this Chapter as a reserve area that is available to be constructed for parking in the future, if the applicant can provide documentation showing that the proposed use of the property at the time of the application does not require the minimum number of spaces specified in §151.3204. The proposed reserve area shall be dedicated for future parking only and shall remain as open space until such time that it is necessary to develop the area as parking. In any case in which the Planning Commission permits an applicant to create a reserve parking area, in lieu of development of the minimum required parking, then the Planning Commission shall require, as a condition of approval, that the development be monitored by the Community Development Director on a periodic basis in order to ensure the adequacy of the parking as constructed meets the current needs of the development or that there is a need to construct all or part of the reserve area for parking. Upon recommendation from the Community Development Director that additional parking is needed within the reserve area, the Planning Commission may require that all or a portion of the reserve area be constructed for parking.

(b) If the parking area requires stormwater detention/retention, the applicant shall either design the detention/retention facilities to accommodate the reserve area or demonstrate what stormwater best management practices they will incorporate in the reserve area in lieu of detention/retention to compensate for the

additional stormwater runoff, if the reserve area is developed. The City Engineer shall determine if the detention/retention and/or stormwater BMP's shall be required to be built during the initial construction phase or may be delayed until the reserve parking area is required to be developed.

§ 151.3207 SPECIFIC STANDARDS FOR THE OLD MONTGOMERY DISTRICT.

(a) No off-street parking shall be permitted between the established building setback and the public right-of-way.

(b) In recognition of the historic, compact character of buildings in the Old Montgomery District, as well as the less efficient use of the floor area of those buildings, the number of off-street parking spaces for each facility or use in the Old Montgomery District shall be determined according to the following:

(1) The number of off-street parking spaces shall be fifty percent (50%) of the standards set forth in § 151.3204.

(2) However, due to unique building and site characteristics that may be present in the Old Montgomery District, the Planning Commission and/or Council may approve a development plan with fewer parking spaces than fifty percent (50%) of the requirements set forth in § 151.3204. In order for the Planning Commission to consider a reduction of the required spaces, the applicant must demonstrate that such a reduction is warranted based on the following criteria.

A. The character of the proposed use, the design of the building and the ability of the proposed use to reinforce the main street environment;

B. The availability and accessibility of public parking spaces, both on-street and within public parking lots to meet the needs of the development;

C. The availability of parking areas on adjacent sites, considering the hours of operation of the proposed use compared to adjacent uses to meet the needs of the development; and

D. The potential negative impact to the character of the district if the requisite number of parking spaces is provided.

§ 151.3208 OFF-STREET WAITING SPACES FOR DRIVE-THRU FACILITIES.

Drive-thru establishments and other establishments which, by their nature, create lines of customers waiting to be served within automobiles shall provide off-street waiting areas, on the same lot as the use, in addition to the required number of parking spaces specified in Schedule 151.3204, in accordance with the following:

(a) Minimum Number of Waiting Spaces:

(1) Establishments serving and/or selling food and/or drinks:	10 waiting spaces
(2) Automatic car wash facilities where a chain conveyor or other similar method is used to move the vehicle through the structure:	10 waiting spaces
(3) Facilities with service windows or service entrances such as banks, ticket booths, and other similar facilities:	5 waiting spaces, plus an additional 2 spaces for each additional window or stall
(4) Self-serve car wash facilities:	2 waiting spaces per stall
(5) Gasoline stations:	2 waiting spaces per accessible side of a gasoline pump island

(b) Vehicles Prohibited within the Public Right-of-Way. In any case, vehicles shall not be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.

(c) Waiting Space Dimensions. Each required off-street waiting space shall have an area not less than 144 square feet (measuring 8 feet by 18 feet) exclusive of

access drives and shall not interfere with parking or circulation.

§ 151.3209 PARKING SPACES FOR PERSONS WITH DISABILITIES.

In accordance with the Americans with Disabilities Act (ADA) of 1990, all new construction and alterations to places of public accommodation and commercial

facilities shall provide parking spaces that are designed and constructed to be readily accessible to persons with disabilities. The required spaces and their dimensions shall be in accordance with the Montgomery Code of Ordinance § 76.11 and the Ohio Basic Building Code, respectively.

§ 151.3210 PARKING DESIGN STANDARDS.

(a) Design Standards. Off-street parking areas for full size vehicles, which are motor vehicles seventeen (17) feet in length or longer, shall be designed and constructed in accordance with the following minimum dimensions set forth in Schedule 151.3210, based on the angle of the spaces. Figure 151.3210 illustrates the requirements for each angle scenario.

(b) Compact Care Design Standards. Up to 30 percent of the minimum required

parking spaces may be designed for use by compact cars, which are motor vehicles smaller than seventeen (17) feet in length. Any reduction in the total parking area obtained as a result of using compact-sized spaces may be landscaped and will count towards the total required landscaping for the parking lot as specified in §151.3408. Compact-sized parking spaces shall be located in 1 or more continuous areas and shall not be intermixed with spaces designed for full size cars. Compact-size spaces shall be labeled as “Compact Cars Only” and clearly marked with pavement marking. The minimum parking dimensions for full size and compact vehicles are set forth in Schedule 151.3210(a) and 151.3210(b) based on the angle of spaces.

Schedule 151.3210(a)

PARKING DESIGN STANDARDS FOR FULL SIZE VEHICLES

	45°	60°	90°	PARALLEL
(a) Width of Parking Space	9 ft	9 ft	9 ft	9 ft
(b) Length of Parking Space	18 ft ⁽¹⁾	18 ft ⁽¹⁾	18 ft ⁽¹⁾	23 ft
(c) Width of Parking Aisle	13 ft	18 ft	24 ft	12 ft
(d) Width of Double-loaded Parking Module	51 ft	56 ft	60 ft	30 ft
(e) Circulation Aisle (one way)	17 ft	14 ft	14 ft	14 ft

Notes to Schedule 151.3210:

⁽¹⁾ When a parking space is adjacent to a landscaped area that has a width greater than six feet, the length of the parking space may be reduced by not more than 2 feet.

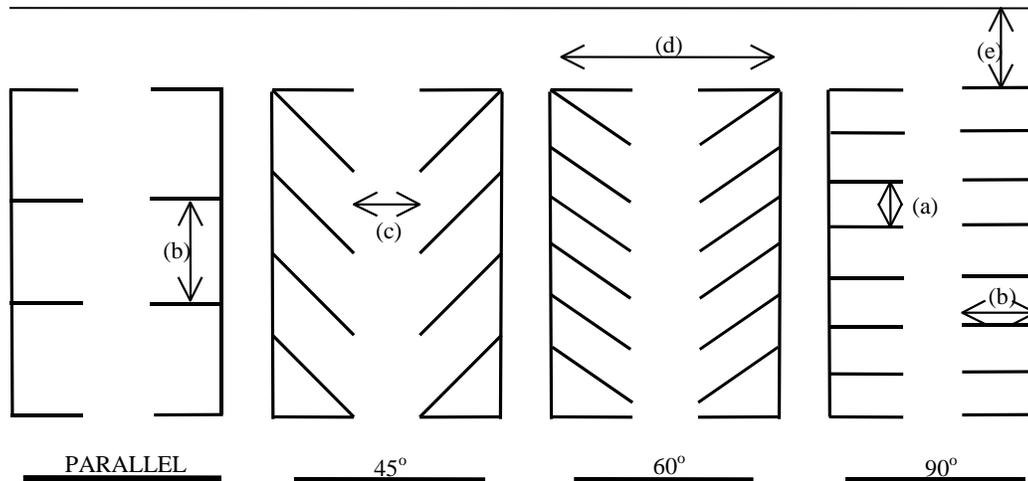
**Schedule 151.3210(b)
PARKING DESIGN STANDARDS FOR COMPACT VEHICLES**

	45°	60°	90°	PARALLEL
(a) Width of Parking Space	8 ft	8 ft	8 ft	8 ft
(b) Length of Parking Space	16 ft ⁽¹⁾	16 ft ⁽¹⁾	16 ft ⁽¹⁾	18 ft
(c) Width of Parking Aisle	11 ft	16 ft	22 ft	12 ft
(d) Width of Double-loaded Parking Module	47 ft	52 ft	54 ft	28 ft
(e) Circulation Aisle (one way)	17 ft	14 ft	14 ft	14 ft

Notes to Schedule 151.3210:

⁽¹⁾ When a parking space is adjacent to a landscaped area or sidewalk that has a width greater than six feet, the length of the parking space may be reduced by not more than 2 feet.

**Figure 151.3210
ILLUSTRATION OF PARKING DESIGN STANDARDS**



() Letters refer to subsections on Schedule 151.3209.

§ 151.3211 REGULATIONS FOR ACCESS DRIVES.

The driveway for a single or two-family dwelling, behind the street right-of-way shall be not less than 8 feet nor more than 20 feet in width and a minimum distance of 5 feet from the side lot line, except where two or more properties share a common drive through a joint access

easement, in which case, no setback is required between the properties sharing the easement. Residential access drives must also be in conformance with Chapter 93 of Montgomery Codified Ordinances. In all other cases, the location, width, and number of entrance and exit access drives to accessory parking spaces shall be in accordance with the following:

(a) Location. The location and width of entrance and exit driveways to parking facilities shall be planned to interfere as little as possible with the use of nearby property and with pedestrian and vehicular traffic on the nearest streets. Access driveways shall be located at least 50 feet from the right-of-way line of the nearest intersecting street and no less than 10 feet from the side property line, unless there is a shared easement with the abutting property.

(b) Number of Drives.

(1) Each lot shall be permitted one two-way access drive per street frontage, or, upon review of the site plan, the Planning Commission and/or Council may permit a pair of one-way drives. Planning Commission and/or Council may permit an additional entrance on lots with a street frontage exceeding 250 feet.

(2) Entrances and exits shall be limited to two lanes, except where one driveway provides the sole access to the property and serves as both an entrance and exit, and then it shall be limited to three lanes.

(3) Width of Access Drives. The width of such entrance and exit lanes shall be not less than 12 feet or more than 15 feet per lane and shall not exceed a total of 40 feet.

(c) Radius. The radius of the edge of the access drive apron shall be at least 30 feet so that a vehicle may enter from or exit onto the curb lane without obstructing vehicles in other traffic lanes.

§ 151.3212 OFF-STREET LOADING REQUIREMENTS.

When off-street loading spaces are provided for business and commercial buildings, they shall comply with the following regulations:

(a) No loading space shall be located closer than 50 feet to a lot in any residential district, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or fence no less than 6 feet in height.

(b) No loading spaces shall face a street right-of-way unless the Planning Commission determines that loading spaces facing the street right-of-way minimizes the impact on adjoining properties. Such loading spaces, if approved, shall be enclosed on all sides by a wall or fence no less than 6 feet in height.

(c) Screening for all loading areas shall be provided along any perimeter that faces a street right-of-way or adjoining property according to the screening requirements of Chapter 151.34.

(d) All loading spaces shall be located on the same lot as the use served and no part of any required yard, off-street parking area, or access drive thereto, shall be used for loading or unloading purposes unless permitted by Planning Commission and/or Council.

(e) Access to truck loading and unloading space shall be provided directly from a public street or alley or from a right-of-way that will not interfere with public convenience and that will permit the orderly and safe movement of trucks.

(f) Streets, sidewalks, alleys or other public rights-of-way or other public property shall not be used for loading purposes nor shall vehicles be parked on such areas during loading and unloading.

(g) Off-street loading spaces shall not be used for repair or servicing of motor vehicles.

§ 151.3213 IMPROVEMENT AND MAINTENANCE STANDARDS.

All driveways, parking areas, curbs, and bumper guards shall be constructed in accordance with standards established by the City Engineer and the following:

(a) Paving. All parking and loading areas and access driveways shall have asphalt or other similar hard surface approved by the City Engineer. Pervious pavement may be used for all driveways, parking areas, curbs and bumper guards if reviewed and approved by the City Engineer. All interior landscaped areas shall have protective curbs along the edges to protect the landscaping from vehicles; however, the curbs shall be perforated or have caps or breaks to allow for stormwater runoff to pass through them, 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 Office and L-B, G-B and OM Outer Business Districts shall not exceed 25 feet. Institutional uses in residential and office 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 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, Business, and Old Montgomery Districts

Use	O, 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, Business and Old Montgomery District

	O, 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

(f) Signs. Signs shall be provided in accordance with Chapter 151.30.

(g) Maintenance. A parking area or loading space shall be maintained in a safe condition to keep it as free as practicable from rubbish, paper and other loose particles, and free of any dangerous accumulation of water, snow and ice. All adjacent sidewalks shall be kept in a safe condition for use by pedestrians and free as practicable from rubbish, paper and other loose particles and weeds, and the dangerous accumulation of water, snow and ice. All signs, markers or any other methods used to indicate direction of traffic movement and location of parking and/or loading spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot, shall be maintained in good condition throughout its use for parking purposes.

**§ 151.3214 PARKING LOT
LANDSCAPING AND SCREENING.**

All screening and buffering of parking areas shall be in conformance with the regulations set forth in Chapter 151.34.

**§ 151.3215 DEVELOPMENT PLAN
REVIEW.**

Detailed drawings showing the features of off-street parking and loading areas shall be submitted to the Planning Commission for development plan review as required by Chapter 150.14. Any application made which necessitates compliance with the off-street parking provision of this Chapter and involves 2 or more tax parcels shall not be considered until the Zoning Administrator is provided with proof that the tax parcels are or will be combined into a single tax parcel or an appropriately recorded easement.

**CHAPTER 151.34
Landscaping and Screening Regulations**

<p>151.3401 Intent.</p> <p>151.3402 Flexibility in the arrangement and placement of landscaping and screening.</p> <p>151.3403 Landscape materials determined by zoning administrator.</p> <p>151.3404 Definitions.</p> <p>151.3405 General landscaping and maintenance of yards.</p> <p>151.3406 Landscaping requirements for front yards.</p>	<p>151.3407 Screening and buffering when lot abuts a residential district or residential use.</p> <p>151.3408 Screening and landscaping of parking lots.</p> <p>151.3409 Screening of accessory uses.</p> <p>151.3410 Requirements for fences and walls in commercial districts.</p> <p>151.3411 Approval process for required landscaping, fences and walls.</p>
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§ 151.3401 INTENT.

Visual screening or landscape buffers for office, commercial, institutional, and multifamily residential properties shall be provided for the following purposes:

- (a) To remove, reduce, lessen or absorb the impact between certain land uses by the proper utilization of landscaped and screened buffers;
- (b) To minimize potential noise, glare and visual clutter of parking and loading areas, trash receptacles and outdoor storage by obscuring the view with landscaping and screening;
- (c) To protect, preserve and promote the aesthetic appeal, character and value of the City of Montgomery’s neighborhoods, particularly by providing interest along the streetscape;
- (d) To soften the appearance of building masses and to break up and reduce the impact of large paved areas;
- (e) To reduce heat generation, stormwater run-off and soil erosion; and
- (f) To establish a minimum standard for the consistent appearance of plant material in the community landscape.

§151.3402 FLEXIBILITY IN THE ARRANGEMENT AND PLACEMENT OF LANDSCAPING AND SCREENING.

The standards and criteria in this Chapter establish the City’s objectives and levels of landscaping intensity expected. However, it should be recognized that existing vegetation and other natural features may also adequately achieve the intended standards and objectives of each section, and precise compliance with all of the numerical standards may be preempted or unnecessary because of existing or proposed conditions on the site or adjacent property. Therefore, when complying with this Chapter, the City may permit the flexible arrangement of the plant material to best achieve the intent of this Chapter and the purposes of the numerical standards, to preserve existing natural features, and to assure that other health and safety objectives and standards of the City are not compromised.

§ 151.3403 LANDSCAPE MATERIALS DETERMINED BY ZONING ADMINISTRATOR.

The Zoning Administrator, subject to approval by the Planning Commission, shall adopt certain rules and regulations setting forth acceptable landscape materials including, but not limited to, trees, shrubs, groundcover, fill, fencing or other decorative landscape materials necessary for the enforcement of this Chapter and any other landscape requirements of this Code.

§ 151.3404 DEFINITIONS.

Terms related to required landscaping and screening shall have the following meanings:

- (a) Berm. An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.
- (b) Caliper. The caliper of a tree shall be determined at four and one half (4 ½) feet from the ground, commonly known as Diameter at Breast Height (DBH).
- (c) Deciduous. A plant with foliage that is shed annually.
- (d) Evergreen. A plant with foliage that persists and remains green year-round.
- (e) Shade Tree. A tree with foliage that usually sheds annually and is planted primarily for its high crown of foliage or overhead canopy. A shade tree must be a species that has a minimum height at maturity of at least 30’.
- (f) Shrub. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.
- (g) Ornamental Tree. A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

§ 151.3405 GENERAL LANDSCAPING AND MAINTENANCE OF YARDS.

Required yards and all other portions of the lot not covered by permitted structures shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition.

- (a) All screening shall be free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles, consistent with Chapter 151.30.
- (b) Trees and shrubs shall be arranged to create varied and attractive views and plant material should provide a variety of color displayed throughout the year.
- (c) The required landscaping shall be maintained in healthy condition by the current owner and replaced when necessary. Replacement material shall conform to the original intent of the landscape plan.
- (d) Vehicle parking shall not be permitted in landscaped areas and is restricted to paved surfaces.
- (e) All interior landscaped areas shall have protective curbs along the edges to protect the landscaping from vehicles; however, the curbs shall be perforated or have caps or breaks to allow for stormwater runoff to pass through them, unless determined to be inappropriate by the City Engineer.
- (f) Bioretention areas, rain gardens, filter strips and swales constructed to function as a stormwater best management practices shall be allowed in the required landscaped areas; however, the existence of a stormwater BMP does not eliminate the

requirement for major shade trees as outlined in this Section.

§ 151.3406 LANDSCAPING REQUIREMENTS FOR FRONT YARDS.

All areas, except lots devoted to single-family detached and two-family dwellings, within the required building and parking setback, excluding driveway openings, shall be landscaped and maintained in compliance with the following minimum standards:

- (a) One major shade tree shall be provided for every 30 linear feet of lot frontage, not including drive entrances. §151.3408 apply. Each tree, at the time of installation, shall have a clear trunk height of at least 6 feet and a minimum caliper of 2 inches.
- (b) One shrub shall be provided for every 5 linear feet of lot frontage or fraction thereof, not including drive entrances. In the yard area in front of a parking lot, the requirements of §151.3408 (b) also apply. Each shrub shall have a minimum height of 18 inches at the time of installation.
- (c) All areas not devoted to trees and shrubs shall be planted with grass, ground cover or other landscape treatment, excluding paving. Mulch, landscaping stones, and similar landscape treatment shall not be a substitute for ground cover plants.
- (d) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.
- (e) Landscaping requirements in the OM District may be modified by the Zoning Administrator.

§ 151.3407 SCREENING AND BUFFERING WHEN LOT ABUTS A RESIDENTIAL DISTRICT OR RESIDENTIAL USE.

Screening and buffering along the common boundary or portion thereof shall be provided in accordance with the following regulations and shall be approved as part of the development plan required by Chapter 150.14.

- (a) When Required: Screening and buffering shall be required for parking lots, access drives or loading and service areas when adjacent to a residential use or district.
 - (1) When a property in the LB district is adjacent to a residential use or district, the screening requirements shall be extended along the entirety of the shared property line.
 - (b) Width of Buffer Yard. Each required buffer yard shall have the minimum width equal to the parking setback required for the district.
 - (c) Type of Screening. A brick, stone, or decorative masonry wall of acceptable design along the common boundary or portion thereof, shall be required. The spaces between the wall and the lot line of the adjoining premises in any residential district shall be landscaped with grass, hardy shrubs, or evergreen ground cover and maintained in good condition. In lieu of a wall, a solid, continuous, visual screen along the common boundary or portion thereof with one or more of the items listed below can be substituted, only when it is determined by the Planning Commission that such screening can be equally as effective as the solid wall.
 - (1) Existing natural vegetation; or
 - (2) New screening materials consisting of one or a combination of the following:

A. A landscaped mound or berm at least 3 feet in height, and planted with an evergreen hedge or dense planting of evergreen shrubs not less than 6 feet in height measured from the natural grade.

B. A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer; or

C. A solid fence.

(d) Location. The location of the wall, fence, or vegetation shall be placed within the buffer yard to maximize the screening effect as determined by the Planning Commission and/or Council.

(e) Height of Screening. The height of the screening, measured from the natural grade, shall not be less than 6 feet in height and shall be maintained in good condition without any advertising thereon. When the screening or a portion thereof is intended to be achieved with vegetation, the required height shall be a minimum of 42” at planting with a 6’ height achieved no later than 24 months after the initial installation. Whenever the required screening is located along the common side lot line in the area extending from the front building line of the residential use to the street, the required screening shall not exceed a height of 4 feet.

§ 151.3408 SCREENING AND LANDSCAPING OF PARKING LOTS.

(a) Landscaping on the Interior of Parking Lots: Interior landscaping of parking lots shall be provided in accordance with the following requirements:

(1) When any parking area is designed to accommodate 10 or more vehicles, a minimum of 10 percent of the parking surface area shall be planted as landscaped island areas, developed and reasonably distributed throughout

the parking surface area so as to provide visual and climatic relief from broad expanses of pavement. The total parking surface area for such calculation shall not include parking area in a parking garage other than the top level which is open and exposed for parking whether at ground surface or the roof level of an above ground parking structure. The total parking surface area shall also include any impervious surface area intended for stopping, standing, traveling, display or inventory of motor vehicles.

A. Landscaped islands shall be developed and distributed throughout the parking lot to define major circulation aisles and driving lanes and provide visual and climatic relief from the broad expanses of pavement.

B. Each island shall be a minimum of 6 feet in any horizontal dimension. Where an individual tree is planted in a space surrounded by pavement, the planting area shall have a minimum interior dimension of 5 feet by 5 feet. All interior landscaped areas shall have protective curbs along the edges to protect the landscaping from vehicles; however, the curbs shall be perforated or have caps or breaks to allow for stormwater runoff to pass through them, unless determined to be inappropriate by the City Engineer.

C. Interior landscaping islands shall be designed to serve as bioretention areas, unless determined to be inappropriate by the City Engineer. A minimum of one tree shall be installed for every 435 square feet and one shrub shall be installed for every 30 square feet of interior bioretention areas. Figure 151.3408(f) illustrates an example of

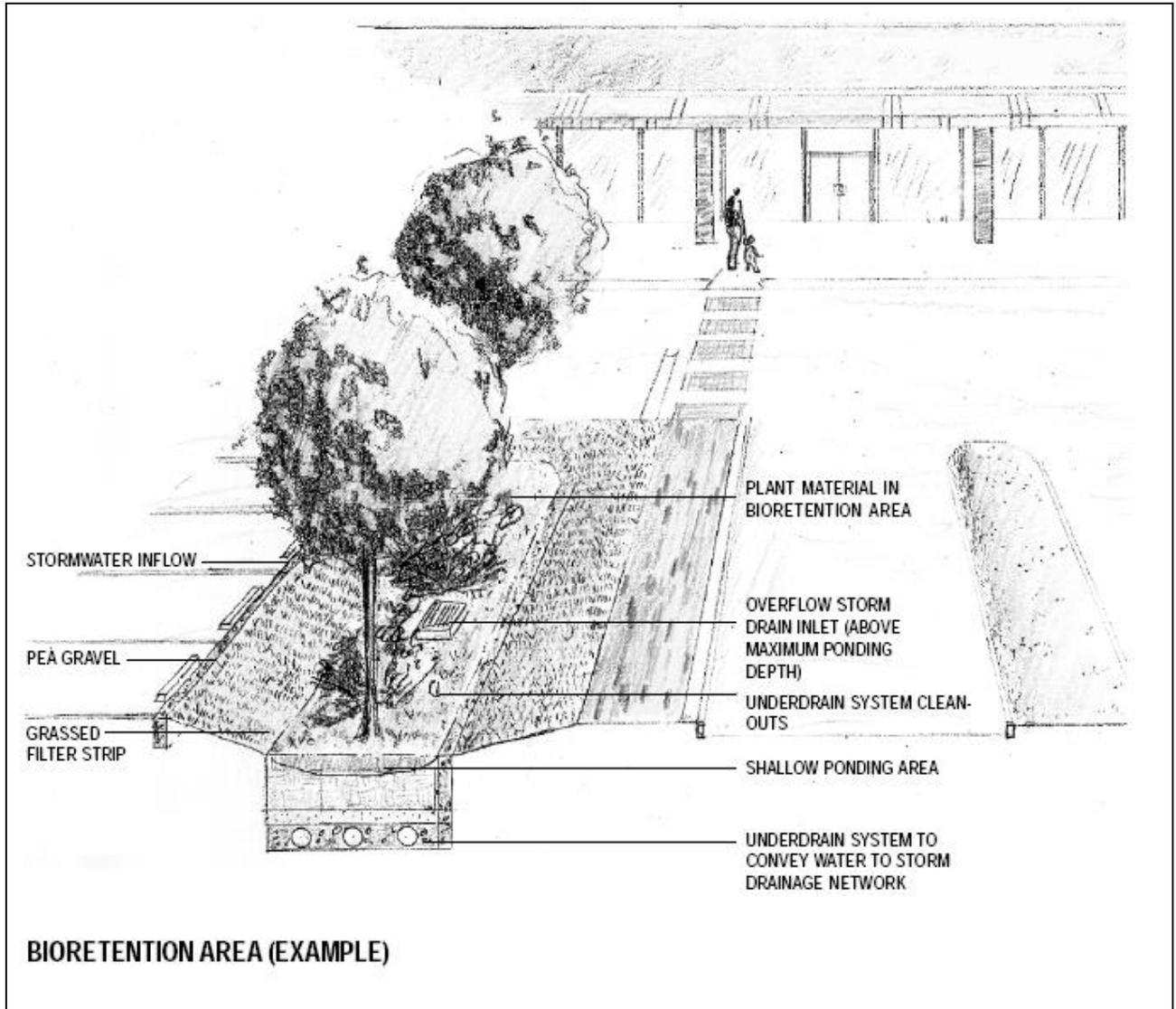
an interior parking lot bioretention area.

there is no impairment to the visibility of motorists or pedestrians.

D. Shrubs or low, spreading plant materials may be planted within the required landscaped islands provided

E. Landscaping needed to meet the perimeter landscape requirement shall not be counted toward interior landscaping.

**Figure 151.3408(f)
Bioretention Area Example**



(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, Business, 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 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 and approved as part of a development plan pursuant to Chapter 150.14.
- (b) When a fence or wall is proposed at a separate time from any other development for new construction, additions or site renovation, a fence or

wall may be approved administratively by the Zoning Administrator when the Zoning Administrator determines that the proposal:

- (1) Complies with the requirements of this Section;
- (2) Is consistent with any previously approved plan;
- (3) Is compatible with the current site development if there is no approved plan; and
- (4) Will have a minimal adverse impact to the surrounding areas.

If, because of the nature and location of the proposed fence or wall, the Zoning Administrator does not make such a determination, the request shall be referred to the Planning Commission and considered by the Commission according to the development plan review procedures in Chapter 150.14.

**CHAPTER 151.36
Regulations for Wireless Telecommunication Facilities**

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| <p>151.3601 Purpose.</p> <p>151.3602 Definitions.</p> <p>151.3603 Permitted locations.</p> <p>151.3604 Locations requiring conditional use approval.</p> | <p>151.3605 Standards applicable to all wireless telecommunication facilities.</p> <p>151.3606 Development plan review required.</p> <p>151.3607 Removal of telecommunication facilities.</p> |
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§ 151.3601 PURPOSE.

These regulations are established to provide for the construction and use of wireless telecommunication facilities, which shall include all antennas, towers, and support structures, within areas of the City as permitted herein. The intent of these regulations is to balance the competing interests created by the Federal Telecommunication Act of 1996, Public Law 104-104, and the interests of the City in regulating wireless telecommunication towers and related facilities for the following purposes:

- (a) To protect residential areas and avoid potential damage to adjacent properties from wireless telecommunication antennas, towers, support structures and facility failure;
- (b) To protect property values;
- (c) To regulate a commercial use so as to provide for orderly and safe development within the City;
- (d) To provide for and protect the health, safety, and general welfare of the residents of the City;
- (e) To encourage the joint use of any new and existing wireless telecommunication towers and related facilities to minimize the number of such structures within the City; and

- (f) To minimize the adverse visual effects of wireless telecommunication towers and related facilities.

§ 151.3602 DEFINITIONS.

- (a) Collocation: The use of a wireless telecommunication facility by more than one wireless telecommunication provider.
- (b) Lattice tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.
- (c) Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- (d) Personal wireless services. Commercial mobile services, wireless services and common carrier wireless exchange access services, including cellular and digital services.
- (e) Technically suitable: The location of a wireless telecommunication antenna that reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna has been licensed by the FCC to operate without a significant loss of communication capability within developed areas of the City.
- (f) Telecommunication: The technology which enables information to

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 omni-directional 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, 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, 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, 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, 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, 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

than existing towers housing similar antennae.

(i) Prior to approving a new tower with a tower height greater than those prevailing in the area, or a tower in a location not in compliance with these regulations, the applicant shall demonstrate to the City that such new tower or additional height is needed to meet the reasonable service requirements of the applicant. This assessment shall include consideration of alternative sites and the operational implications of such alternatives with respect, but not limited, to: height, opportunities for collocation, impact on residents, impact on service levels, etc. The City may retain consultant(s) to review the information with the reasonable costs for such consultation being borne by the applicant(s).

(j) Unless otherwise permitted in the zoning district in which the wireless telecommunication tower or facility is located, all other accessory uses to the wireless telecommunication tower or facility including, but not limited to, business office use, maintenance depot use, and materials and vehicle storage are prohibited from the site.

(k) The base of the tower and its support structures, shall be completely enclosed with a secure fence having a minimum height of 8 feet and shall be erected to prevent access by non-authorized personnel.

(l) Landscaping shall be required to screen the fence and should soften the appearance of the wireless telecommunication facility. At least one row of evergreens planted five feet on center maximum and a minimum height of 6 feet at planting shall be required to completely screen the fence from view. Existing vegetation surrounding the fenced area shall be preserved to the maximum extent possible. The City may permit a combination of existing vegetation,

topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

(m) The tower shall be painted a non-contrasting gray or similar color to reduce visual impact, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA). All accessory buildings and structures shall be aesthetically and architecturally compatible with the surrounding environment and adjacent buildings and structures.

(n) "No Trespassing" signs may be posted on the required fence in a clearly visible location with a telephone number of who to contact in the event of an emergency. No other signs or advertising shall be located anywhere on the facility.

(o) If the wireless telecommunication site is completely automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in this Zoning Code.

(p) Unless required by the Federal Aviation Administration (FAA), no artificial lighting shall be permitted on any wireless telecommunication tower or related facility.

§ 151.3606 DEVELOPMENT PLAN REVIEW REQUIRED.

All wireless telecommunication towers and facilities subject to these regulations shall comply with the procedures for development plan review set forth in Chapter 150.14. In addition to the submission requirements set forth in § 150.1407, the applicant shall submit the following items:

(a) The proposed location of the wireless telecommunication tower, antenna and support structures, including guy wires, as well as the dimensions, height, and where applicable, the gross floor area of the buildings. All materials for buildings and structures shall be specified in the plan.

(b) A written statement and a pictorial presentation by the applicant as to the visual and aesthetic impacts of the proposed wireless communication tower or facility on all adjacent residential zoning districts.

(c) Documentation supporting that the proposal has been approved by the Ohio Department of Transportation, the Federal Aviation Administration, and the Federal Communications Commission, if applicable.

(d) The site shall be restored to its original state, as it existed prior to the installation of the wireless telecommunication tower or facility, within 6 months after the wireless telecommunication tower or facility has discontinued service.

§ 151.3607 REMOVAL OF TELECOMMUNICATION FACILITIES.

(a) All wireless telecommunication towers, structures and equipment that have discontinued service for a period of 6 months shall be removed by the owner of the tower or facility. Any structure that has not been maintained, has been abandoned, has become obsolete, has been unused or ceased its daily activities or operations shall be considered “discontinued”.

(b) Any tower that has had no antenna mounted upon it for a period of six months, or if the antenna mounted thereon are not operated for a period of three months, shall be considered abandoned, and the owner thereof shall remove the tower within 180 days after receipt of a notice from the Zoning Administrator to do so.

(c) In the event more than one wireless communication service provider is using the antenna support structure, the antenna support structure shall not be considered abandoned until all such users cease using the structure as provided in this Section.

**CHAPTER 151.50
Nonconforming Use Regulations**

151.5001	Purpose.	151.5008	Change from nonconforming use.
151.5002	Nonconforming use of buildings and land.	151.5009	Certificate of nonconforming use required.
151.5003	Nonconforming buildings or structures.	151.5010	Existing use deemed conditional use; permit required for change.
151.5004	Nonconforming parking facilities.	151.5011	Completion of construction with zoning certificate.
151.5005	Nonconforming signs.		
151.5006	Nonconforming lots.		
151.5007	Nonconforming use due to reclassification.		

§ 151.5001 PURPOSE.

The purpose of this Chapter is to recognize the existence of uses, buildings, lots and structures that lawfully existed at the time of this Code’s enactment, or amendment thereto, but which now do not conform with one or more of the regulations contained in this Code. Nonconforming status is considered to be incompatible with permitted uses in the zoning district in which it exists. Therefore, nonconforming uses, buildings, lots, and structures are subject to regulations limiting their use, restoration, reconstruction, extension, and substitution. Such nonconforming status shall be continued only in conformance with this Chapter.

A nonconforming lot, use, building or structure does not include nonconformity with regulations pursuant to a legally granted variance from a zoning regulation.

§ 151.5002 NONCONFORMING USE OF BUILDINGS AND LAND.

A use of building or land, or building and land in combination, existing lawfully on the effective date of this Zoning Code, or any amendment thereto, but which does not conform to the use regulations of the district in which it is

located, is a lawful nonconforming use. A nonconforming use may continue so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

(a) Alteration, Reconstruction, of a Building Occupied by a Nonconforming Use. No building or structure occupied by a nonconforming use shall be reconstructed or structurally altered unless the use thereof is changed to a use permitted in the district in which the building is located.

(b) Enlargement or Expansion of Nonconforming Use of Buildings or Land. A nonconforming use of a building or land shall not be physically enlarged, expanded, or relocated to a part of the lot that was not occupied by the use at the time it became nonconforming.

(c) Change or Substitution of Use. A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless the Board of Zoning Appeals, on appeal, finds that the use proposed is equally appropriate or more appropriate to the district than the existing nonconforming use, and that the use proposed is in less conflict with the character of uses permitted in the applicable zoning district

than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this Code to lessen or minimize the impact of the nonconforming use. Whenever a nonconforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive nonconforming use.

(d) Discontinuance of Use. Discontinuance of the nonconforming use of a building, part of a building, lot or part of a lot for a continuous period of six months or longer shall constitute voluntary abandonment of such use and thereafter any use of the premises shall conform to the use regulations of the district in which the building or lot is located.

(e) Damage or Destruction. In the event a building or structure that is occupied by a nonconforming use is destroyed by any means to the extent of 60% or more of the total market value of the improvements, as currently listed by the Hamilton County Auditor, it shall not be rebuilt, restored or reoccupied for any use unless such use conforms to the use regulations of the district in which the building or structure is located or upon prior approval of the Board of Zoning Appeals.

§ 151.5003 NONCONFORMING BUILDINGS OR STRUCTURES.

A building or structure existing lawfully on the effective date of this Zoning Code, or any amendment thereto, but which does not conform to the area or width of the lot, yard dimensions, lot coverage, height of building or other regulations of the district in which it is located, is a lawful, nonconforming building or structure. A nonconforming building or structure may continue to be used or occupied by a use permitted in the district in which it is located so long as it remains otherwise lawful and does not constitute a public

nuisance, subject to the following provisions:

(a) Maintenance and Repair. Ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, residential driveways or plumbing may be performed on a nonconforming structure or on any portion thereof provided, however, no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

(b) Enlargements or Extensions. A nonconforming building or structure shall not be enlarged or extended unless:

- (1) The original building or structure is made to conform to the regulations of the district in which it is located; or
- (2) The proposed extension is in compliance with the regulations of the district in which it is located, and will not increase any existing nonconformity in any other portion of the building or structure; or
- (3) The building extension will reduce a nonconforming condition; or
- (4) As otherwise permitted in §151.5003(f).

(c) Moving. A nonconforming building or structure shall not be moved in whole or in part to any other location on the lot or to another premises unless the building is made to conform to the regulations of the district in which it is to be located, or as otherwise permitted in § 151.5003(f).

(d) Change in Principal Use of Building. The principal use of a nonconforming building or structure may be changed to any other use permitted in the district in which it is located, so long as the new use complies with all the regulations of this Zoning Code specified for such use.

(e) Restoration of Damaged Building or Structure. If a nonconforming building or structure is damaged or destroyed by any cause to the extent of less than 60% of the total market value of the improvements, as currently listed by the Hamilton County Auditor, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure. Any restoration that exceeds the original footprint and/or floor area must be made to conform to the regulations of the district in which the building is located. All repairs and restorations shall be in compliance with the following conditions:

- (1) A zoning certificate authorizing such restoration shall be obtained.
- (2) Such restoration shall be completed within a period of one year from the date of damage or destruction.
- (3) Such restoration shall not cause a new nonconformity, nor shall it increase the degree of nonconformity or noncompliance existing prior to such damage or destruction.
- (4) Any nonconforming building destroyed by any means to the extent of more than 60% of the total market value of the improvements, as currently listed by the Hamilton County Auditor, shall require approval by the Board of Zoning Appeals prior to restoration.

(f) Reducing a Nonconforming Site Condition on a Single-Family Lot. If an enlargement, extension or relocation of a nonconforming building or structure on a single-family lot is proposed that will result in a reduction in the existing nonconformity, then such enlargement, extension or relocation may be permitted. A Zoning Certificate authorizing the reduction of a nonconforming site condition shall be approved by the Zoning Administrator.

(g) Existing Nonconforming Site Condition on a Lot with a Nonresidential Use. If any nonconforming site condition(s) exists when a revised development plan is required pursuant to § 150.1402, then such site condition(s) must be brought into compliance with district regulations, unless the Planning Commission and/or Council determines that such conformance cannot be reasonably achieved because of existing site conditions. In such case, the Planning Commission and/or Council shall approve a development plan that reduces the existing nonconforming site condition(s) to the maximum extent practicable.

§ 151.5004 NONCONFORMING PARKING FACILITIES.

A building or use existing lawfully on the effective date of this Zoning Code, or an amendment thereto, that does not comply with the off-street parking regulations, may be occupied by the existing building or use without modifying such parking facilities. In the event that an existing building is altered or a use is changed or substituted, then off-street parking shall be provided in accordance with the numerical and design requirements of Chapter 151.32 for the intended use.

§ 151.5005 NONCONFORMING SIGNS.

A sign, lawfully existing on the effective date of this Zoning Code, or any amendment thereto, but which fails to conform to the sign regulations of the district in which it is located is a nonconforming sign. Non conforming signs shall comply with the regulations set forth in Section 151.3018 and 151.3020.

§ 151.5006 NONCONFORMING LOTS.

A lot of record that does not comply on the effective date of this Zoning Code, or any amendment thereto, with the lot area or lot width regulations of the district

in which the lot is located may be used as follows:

(a) Existing Dwelling on a Residential Lot. If the lot is occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Zoning Code, except the lot area and lot width regulations of the district in which the lot is located. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.

(b) Vacant Single Nonconforming Lot of Record. A vacant non-conforming lot that is in separate ownership and not of continuous frontage with other lots in the same ownership shall be permitted to be developed or redeveloped as a site for a single-family dwelling provided that the dwelling and its accessory uses comply with all regulations of this Zoning Code, except the lot area and lot width regulations of the district in which the lot is located. Notwithstanding the above, existing landlocked parcels without any frontage on a public right of way may not be developed or redeveloped without obtaining the frontage required for a panhandle lot as specified in Section 151.1004 (d).

(c) Lots in Combination. If a vacant nonconforming lot adjoins one or more lots, all of which are controlled or pending control of an individual intending to redevelop the property jointly, then on the effective date of this Code or applicable amendment thereto, such lot shall be replatted to create conforming lots as a prerequisite for development.

§ 151.5007 NONCONFORMING USE DUE TO RECLASSIFICATION.

The provisions of this chapter shall also apply to any building, structure, land or

other use hereafter becoming nonconforming as a result of amendments made to this Zoning Code or Zoning Map.

§ 151.5008 CHANGE FROM NONCONFORMING USE.

A nonconforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no nonconforming use shall be made, resumed or reinstated.

§ 151.5009 CERTIFICATE OF NONCONFORMING USE REQUIRED.

At the time of application for a zoning certificate or request for variance, or upon the request of the Zoning Administrator regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence to verify that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time. If the evidence submitted indicates the lot, building, structure or use was legally established and has since become nonconforming because of the establishment of or amendment to this Code, the Zoning Administrator shall issue a Certificate of Nonconforming Use. This certificate shall specify the reason why the use, building, structure or lot is nonconforming, and for nonconforming uses shall also include a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the nonconforming use, and the extent that dimensional requirements are nonconforming.

§ 151.5010 EXISTING USE DEEMED CONDITIONAL USE; PERMIT REQUIRED FOR CHANGE.

Any lawfully existing use that, at the time of its establishment, was not classified

as a conditional use, but which now, because of the passage of this Zoning Code or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be a conforming conditional use. Any change, modification, enlargement or alteration of such use, site development conditions or signs, or change in ownership shall only be permitted upon review and approval by the Planning Commission and/or Council according to the procedures for conditional uses set forth in Chapter 150.16.

§ 151.5011 COMPLETION OF CONSTRUCTION WITH ZONING CERTIFICATE.

Nothing in this Zoning Code shall prohibit the completion of the construction and use of buildings for which a zoning certificate has been issued prior to the effective date of this Zoning Code, or amendments thereto, provided that construction is commenced within 6 months after the issuance of such certificate, with the ground story framework including structural parts of the second floor completed within one year, and the entire building completed within two years after the issuance of the zoning certificate. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction.

Appendix A

Bethesda Hospital

The land situated within the City of Montgomery, Ohio and described more particularly as follows, shall be subject to the provision of Section 151.1216.

Situated in the City of Montgomery, Hamilton County, Ohio, and in Section 5, T 4, ER 1, Sycamore Township and in Section 35, T 5, ER 1, Symmes Township, and more particularly described as follows:

Beginning at the southwest corner of Section 35 of Symmes Township, which point is also the southeast corner of Section 5 of Sycamore Township; thence N 89° 33' 50" E, along the south line of said Section 35, a distance of 640.80 feet to a point; thence N 0° 19' 20" E 1122.32 feet to a point; thence S 89° 36' 20" W a distance of 82.50 feet to point; thence N 6° 40' 40" W a distance of 637.30 feet to a point; thence S 89° 38' 50" W a distance of 477.32 feet to a point; thence S 0° 08' 50" W, 91.75 feet to point; thence S 82° 28' 30" W a distance of 1334.50 feet to a point; thence S 0° 08' 50" W a distance of 160.50 feet to a point; thence S 81° 40' 30" W a distance of 358.70 feet to a point; thence S 0° 25' E a distance of 479.40 feet to a point; thence S 6° 57' W a distance of 1031.88 feet more or less to a point in the south line of said Section 5, thence N 82° 46' E, along the south line of said Section 5, a distance of 1803.04 feet to the southeast corner of Section 5 and the place of the beginning.