



ZONING REPORT

For:
Westgate Plaza
20325 Center Ridge Rd.
Rocky River, OH 44116

Prepared for:
Jaguar Prop Assets LLC

Prepared by:
Comprehensive Zoning Services, LLC

5/5/2025

Report # 25-1047

For more information, please contact:
orders@czoningservices.com
www.czoningservices.com
216-762-1002

TABLE OF CONTENTS

1. Executive Summary
 - 1.1. Legal Conformance and Rebuild Statements
 - 1.2. Property Address & Jurisdiction Information
 - 1.3. Zoning Classification
 - 1.4. Adjacent Parcel Zoning Classifications
 - 1.5. Existing Requirements & Conditions
 - 1.6. Regulatory Inquiries
 - 1.7. Sources
2. Site Images & Zoning Map
3. Legal Description
4. Municipal Correspondence
5. Zoning Code / Land Development Ordinance
6. Off-Street Parking Count Requirements
7. Provisions for Non-Compliance / Non-Conformities

Disclaimer: The conclusions in this Zoning Report, and the materials contained herein are based upon information available in public records, statements of public officials and the examination of survey, appraisal and other documentation provided to, but not prepared by Comprehensive Zoning Services. Comprehensive Zoning Services, LLC, expressly disclaims liability for damages, directly or indirectly, as a result of errors, omissions or discrepancies with regard to the provided information. This Zoning Report is not a legal opinion and should not be construed as one. Recipients of this Zoning Report should conduct their own appropriate legal research and must exercise their own independent legal and business judgment in using these materials. If required, independent legal or other professional advice should be obtained.

1. EXECUTIVE SUMMARY

1.1 Legal Conformance and Rebuild Statement

INTRODUCTION

This zoning report documents the methods and findings of the zoning analysis for the property located at 20325 Center Ridge Rd., which was performed by us, Comprehensive Zoning Services, LLC ("CZS"), in general conformance with industry accepted practices as well as the scope and limitations as set forth below.

SCOPE OF WORK

The purpose of the zoning report is to assist the client in identifying potential liabilities associated with a property's status as related to its current use and the requirements set forth within the local municipality's zoning ordinance for said property. In particular, the zoning report is designed to provide the following information on the property:

- Identify the specific zoning classification as established by the current zoning map;
- Determine if the projected use is a permitted use in the established zone.
- Identify lot size, bulk density (included but are not limited to; building coverage, building size, floor area ratio, allowable number of dwelling units per acre and the allowable floor area devoted to some specific uses), building height, and setback regulations. Off-street parking count requirements (if any) will also be analyzed;
- Identify whether any variances, special use permits, conditions, or site plan approvals were required for the property's development;
- Determine whether the property can be re-built in the event of a catastrophic loss or determine what loss percentage is permissible in the event of the property being non-conforming;
- Determine whether there are known or outstanding building code, fire code or zoning violations on file with the governing municipal entities; and
- Identify the property's conformance with the current zoning classification as legally conforming, legally non-conforming or non-conforming.

As part of this process, CZS has conducted research via the internet and has inquired with applicable municipal employees in order to obtain local zoning ordinances and maps. CZS has also sent Freedom of Information Act requests and correspondence to local municipal agencies in order to determine the property's conformance with respect to the local municipal zoning code, and whether or not any zoning code violations exist. Further, CZS has also requested that the municipality provide a zoning compliance letter/zoning verification letter to confirm the property's zoning classification. Freedom of Information Act requests and correspondence were also sent to applicable local agencies that are responsible for the oversight of building or fire code violations.

The final part of this process included reviewing a survey of the property that has been prepared by a third party. Surveys provide valuable property information such as the

building footprint, lot specifications, setback distances, building height, parking spaces, and other pertinent information. From this research and survey review, CZS was able to opine on the property's conformance with local zoning ordinances.

ASSUMPTIONS

CZS has relied on information from secondary sources including but not limited to governmental agencies, the client, designated representatives of the client, property contacts, property owner, property owner representatives, surveyor, and computer databases. CZS has reviewed and evaluated the thoroughness and reliability of such information. It appears that all information obtained from outside sources and reviewed for this assessment is thorough and reliable. However, CZS does not guarantee or warrant the thoroughness or reliability of this information.

APPLICABILITY

Zoning ordinances and districts can change over time. The conclusions presented in this report apply strictly to the zoning code that existed at the time the report was compiled and which were made available by the governing municipal entity. CZS makes no warranty, expressed or implied, except that the services have been performed in accordance with generally accepted zoning analysis practices applicable at the time and location of the property.

Responses received from local government agencies or other third parties after the issuance of this report may change certain facts, findings, conclusions, or circumstances of the report. A change in any fact, circumstance, or industry-accepted procedure upon which this report is based may adversely affect the findings, conclusions, and recommendations expressed in this report.

LIMITATIONS

The performance of this report was limited by or did not include the following: (1) a physical inspection of the property; (2) signs, parking setbacks, ADA parking requirements, usable open space, impervious surface ratio, landscaping requirements, transparency/façade and other architectural elements, building materials, easements, conservation areas/wetlands, subsurface elements such as utilities and drainage systems, water features/sculptures/artwork, floor heights, fencing, bicycle parking, and recreational elements; additionally, the review of any information not provided on the survey or by the client; and (3) information regarding costs and remedies for building, zoning and fire code violations, which is beyond the scope of this report but can be addressed in a property condition assessment report, offered as a separate service.

RELIANCE

The unauthorized reliance upon this report (including reliance for any other project or purpose other than the project or purpose initially contracted for) shall be at the client's or that relying party's sole risk and without any liability to CZS, unless the client or third party obtains the prior written consent of CZS, which CZS shall not be obligated to provide. Customer shall indemnify, defend, and hold CZS harmless to the fullest extent permitted by law for any claims, losses, or damages allegedly suffered by third parties due to the unauthorized reliance of this report.

FINDINGS

Legal Status: The property was constructed prior to the most recent zoning code updated. All nonconformities observed are considered legal, preexisting.

	Conformance Status	Comments
Land Use:	Legal, conforming	
Setbacks:	Legal, nonconforming	Front yard setback is too long
Height:	Legal, nonconforming	Building is too high
Area:	Legal, conforming	
Density:	Legal, conforming	
Parking Count:	Current: Legal, nonconforming Proposed: Legal, conforming	Property is currently short required parking, but after renovations and conversion into multi-family, the property will have sufficient parking.

Refer to section 1.5 for more detail

Right to Rebuild in the event of calamity:

If a non-conforming building or structure is damaged or destroyed by any means, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure, provided the reconstruction is begun within six (6) months of the damage or destruction.

Sec. 1139.07 (c)

1.2 Property Address & Jurisdiction Information

Property Name:	Westgate Plaza
Property Address:	20325 Center Ridge Rd.
Jurisdiction:	Rocky River, OH
County:	Cuyahoga
Parcel(s):	304-19-009
Lot Size:	1.8314 Acres / 79,775 SF
Year Built:	1969
Building Exterior Footprint:	13,922 SF (7 story building)

1.3 Zoning Classification & Permitted Uses

Current Use:	Office Building: Permitted
Base Zoning District:	OB-3: Office District
Overlays:	n/a
Future Use of Property:	Residential / Multi-family: Permitted

Source: Zoning Map

1.4 Adjacent Parcel Zoning Classifications

North:	GB: General Business District
East:	R-5: Multi-Family
South:	R-5: Multi-Family
West:	Public Right of Way

1.5 Existing Requirements and Conditions

	Code Section	Municipal Requirements	Existing Property Conditions (From Provided Land Survey)	Are the existing conditions in conformance? (Y/N)
Building Requirements:				
Permitted Front Yard Range	1163.07	10'-25'	95'	N, 70' too long
Min. Side Yard Setbacks	1163.07	25' S Side / 10' N' Side	60'	Y
Min. Rear Yard Setback	1163.07	25'	40'	Y
Max. Building Height	1163.09	95'	98.5'	N, 3.5' too high
Lot / Density Requirements:				
Min. Lot Area	1163.05	-	1.8314 Acres	Y
Min. Lot Width	1163.05	-	204'	Y
Max. Building Coverage	1163.05	40%	13,922 / 79,775 = 17.4%	Y
Parking Count Requirements:				
Formula	1187.09	Residential: 2 spaces per dwelling unit (at least 1 enclosed in garage) + 1 guest space for every 4 dwelling units		
Required Spaces		225	Proposed: 230 (184 in garage)	Y

1.6 Regulatory Inquiries

Refer to Section 4 for copies of all municipal correspondence

Zoning Verification			
Weblink:			
Contact:		Title:	
Email:		Telephone:	
Findings:	In Progress		

Open Records Request			
Weblink:			
Contact:		Title:	
Email:		Telephone:	
Findings:	In Progress		

1.7 External Sources

Zoning Code:	Source: https://codelibrary.amlegal.com/codes/rockyriver/latest/rockyriver_oh/0-0-0-17428 Last Amended: 2024
Zoning Map:	Source: https://rrcity.org/rrcityweb/city_maps/Zoning_Map_2024_Final.pdf
Survey:	Surveyor: McSteen Project: 22-118 Date: 10/11/2022

2. SITE IMAGES & ZONING MAP

ACCORDING TO A COURT REPORT DATED MAY 23, 2022 BY COMMUNIQUE FORMING SERVICES, LLC, [REDACTED] 22-11144 THE SUBJECT PROPERTY IS TOUED FOR CONCRETE BUSINESS, AND IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

- [illegible]

12

- [illegible]

2. DISCREPANCIES ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MOMENTS WERE FOUND AT POINTS WHERE INDICATED.

3. ALL OF THE ABOVE SUBJECTS' MOVEMENTS SHOWN ON THE PLAT AS FOUND OR LOCED ARE IN GOOD CONDITION, APPROPRIATELY IDENTIFIED, LATEST CHARTERED NOTES.
4. THE SEARCHER DOES NOT CONSIDER A LIST, GRANT AS TO THE OWNERSHIP OR NATURE OF EASEMENTS AND/OR SOURCE/CAT. OBSERVATIONS SHOWN HEREON.
5. THE SUBJECTS' PROPERTY IS CONCLUSIVE WITH ASSUMING LATEST AND HENCE ARE NO DATA, STRIPS, OR CORRS. SKETCHING THE PARCELS.

DISCUSSION, AREA OF SEARCHED PERIODICALS, SUMMARY
REFERENCES, AND KEYWORD MAP

- ### BASES OF BEARING

NORTH ZONE (M40), MARCH 2011, 2010S EPOCH, AS DERIVED FROM CROSS OBSERVATIONS FOR THE GLOST. RING (PULSAR-TIME-NETWORK).

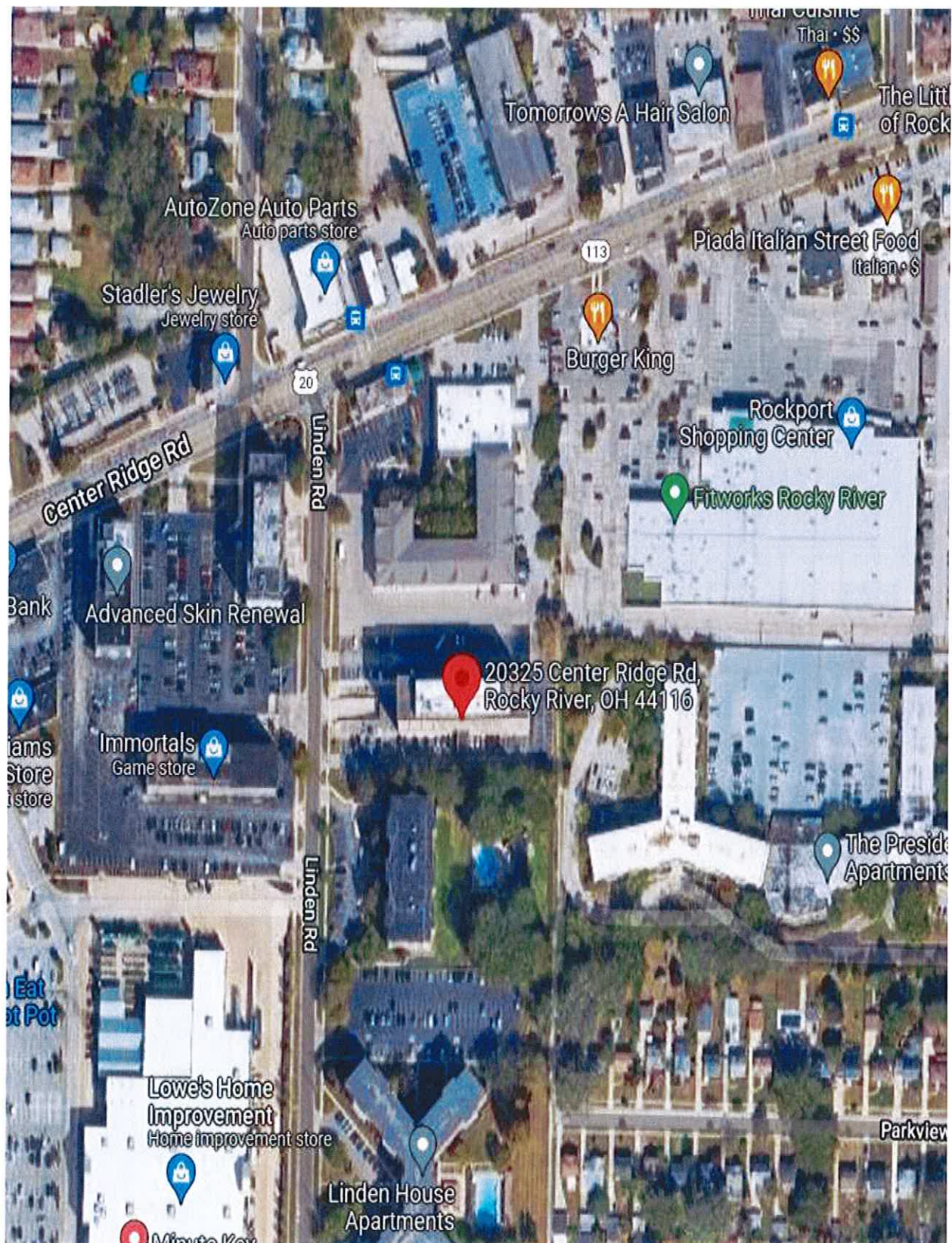
- GRAPHIC SCALE
-
- 1 INCH = 20 FEET

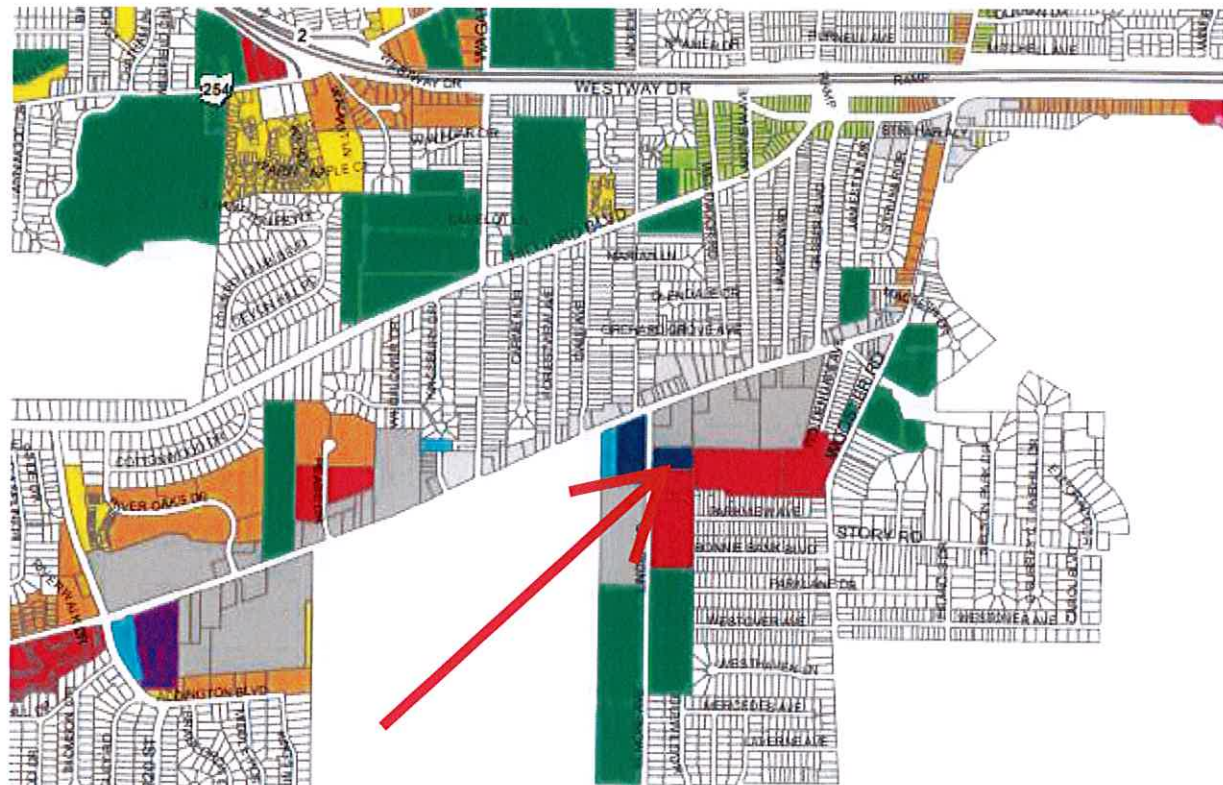
70031 MEDICAL BILL RESOURCE CENTER
COMMITMENT NO. MCS-11235569-CLF
EFFECTIVE DATE: APRIL 11, 2022 AT 7:30 A.M.

- (12) Authors are grateful to Prof. G. Calucci (CNR) for valuable comments. In Volume 200 of *Angew. Phys.* 14, 14, Copyright 1991 by John Wiley & Sons, Inc. 0003-682X/91/0002-0000\$04.00/0
- (13) *Journal of Lasers*, by John J. Henry, *Lasers and Optics*, Oxford, Oxford, 1989, p. 100. This work was supported by a Grant from the National Science Foundation, Grant Number EEC-8800000, and by the Office of Naval Research, Grant Number N00014-88-1-0000. © 1991 John Wiley & Sons, Inc. 0003-682X/91/0002-0000\$04.00/0
- (14) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (15) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (16) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (17) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (18) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (19) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (20) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (21) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (22) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (23) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (24) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (25) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (26) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (27) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (28) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (29) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (30) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (31) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (32) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (33) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (34) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (35) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (36) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (37) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (38) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (39) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (40) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (41) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (42) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (43) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (44) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (45) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (46) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (47) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (48) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (49) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (50) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (51) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (52) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (53) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (54) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (55) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (56) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (57) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (58) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (59) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (60) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (61) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (62) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (63) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (64) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (65) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (66) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (67) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (68) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (69) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (70) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (71) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (72) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (73) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (74) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (75) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (76) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (77) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (78) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (79) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (80) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (81) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (82) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (83) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (84) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (85) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (86) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (87) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (88) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (89) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (90) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (91) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (92) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (93) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (94) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (95) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (96) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (97) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (98) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (99) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (100) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (101) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (102) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (103) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (104) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (105) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (106) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (107) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (108) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (109) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (110) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (111) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (112) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (113) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (114) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (115) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (116) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (117) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (118) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (119) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (120) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (121) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (122) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (123) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (124) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (125) *Phys. Rev. Lett.*, 66, 2027 (1991).
- (126) *Phys. Rev.*



McSteen
LAND SURVEYORS
1415 East 286th Street Wadsworth, OH 44092
Phone 440.385.9800 www.mcsteen.com





Zoning Code Legend			
	R-1		OB-1
	R-2		OB-2
	R-3		OB-3
	R-4		LB
	R-5		GB
	R-6		SM
	R-7		PF

3. LEGAL DESCRIPTION

Source: ALTA Survey

SCHEDULE A LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF CUYAHOGA, STATE OF OHIO, AND IS DESCRIBED AS FOLLOWS:

SITUATED IN THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, AND STATE OF OHIO, AND KNOWN AS BEING SUBLLOT 3 IN LINDEN-CENTER RIDGE SUBDIVISION OF PART OF ORIGINAL ROCKPORT TOWNSHIP SECTION 14 AS SHOWN BY THE RECORDED PLAT IN VOLUME 209 OF MAPS, PAGE 24 OF CUYAHOGA COUNTY RECORDS, AS APPEARS BY SAID PLAT.

TOGETHER WITH THE 99 YEAR EASEMENT DATED JANUARY 22, 1968 AND FILED FOR RECORD FEBRUARY 16, 1968 AND RECORDED IN VOLUME 12196, PAGE 911 OF CUYAHOGA COUNTY RECORDS AND AS AMENDED, RESTATED, REAFFIRMED AND RATIFIED BY INSTRUMENT FILED FOR RECORD OCTOBER 6, 1998 IN VOLUME 98-12976, PAGE 42 OF CUYAHOGA COUNTY RECORDS.

THE SURVEY SHOWN ON THIS DRAWING DEPICTS THE SAME LAND AS DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY'S COMMITMENT NO. NCS-1125558-CLE, DATED APRIL 11, 2022 AT 7:30 A.M.

4. MUNICIPAL CORRESPONDENCE

5. ZONING CODE / LAND DEVELOPMENT ORDINANCE

CHAPTER 1163

Office Building District Regulations

- 1163.01 Intent.
- 1163.03 Use regulations.
- 1163.05 Lot regulations.
- 1163.07 Setback requirements.
- 1163.09 Height requirements.
- 1163.11 Off-street parking regulations.
- 1163.13 Accessory use regulations.
- 1163.15 Landscaping and screening regulations.
- 1163.17 Performance standards.
- 1163.19 Development plan review.

1163.01 INTENT.

The Office Building Districts (OB-1, OB-2, OB-3) and their regulations are established in order to achieve, among others, the following purposes:

- (a) To provide sufficient areas, in appropriate and convenient locations, for professional, administrative, and medical offices as well as mixed use development and the exchange of services;
- (b) To protect adjacent residential neighborhoods by restricting the types of land and non-residential uses, particularly at the common boundaries, which would create congestion, hazards, noise, odors or other objectionable influences; and,
- (c) To promote the most desirable land use and traffic patterns in accordance with the objectives of the Plan of the City.
(Ord. 80-23. Passed 3-25-24.)

1163.03 USE REGULATIONS.

(a) Uses Permitted By Right. A use listed in Schedule 1163.03 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 Development Code have been met;

(b) Conditional Uses. A use listed in Schedule 1163.03 shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning Commission first makes the determination that the requirements of Chapter 1183 have been met, according to the procedures set forth in Chapter 1131, Conditional Use Certificates;

(c) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in Schedule 1163.03 shall be permitted provided that the requirements of all other City ordinances and this Development Code have been met.

(d) Compliance with Standards. 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 Code applicable to the specific use and parcel in question.

(e) Use Not Listed in Schedule. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in this zoning district and shall only be permitted upon amendment of this Code and/or the Zoning Map as provided in Chapter 1135 or upon a finding that a use is substantially similar as provided in Section 1127.39.

(f) Schedule 1163.03 Permitted Uses.

Schedule 1163.03 Permitted Uses	
	OB-1, OB-2, OB-3 Office Building Districts
(1) Residential/Lodging	
A. Dwelling unit(s) above the first floor of a building	P
B. Hotel/motel	P
C. Multi-family dwelling	P
D. Family day care home for 1-6 children (Type B)	P
(2) Group Residential	
A. Adult care facility for 3-5 persons (Adult family home)	P
B. Residential facility for 5 or fewer persons (Foster family home)	P
C. Residential facility 6-8 persons (Family home)	P
(3) Office and Professional Services	
A. Administrative, business and/or professional office	P
B. Bank and other financial institutions	P
C. Bank and other financial institutions with drive-through	C
D. Medical/dental office	P
E. Medical/dental/health services clinic	P
F. Health services/wellness facilities	P

(4) Retail and Services	
A. Retail establishment	P
B. Freestanding automated teller machine or drive-thru	C
C. Restaurant or tavern	P
D. Service establishment, business	P
E. Service establishment, personal	P
F. School, specialty/personal instruction	P
(5) Entertainment and Recreation	
A. Gym, health club, health spa, yoga studio	P
B. Assembly hall, membership club, and/or conference center	P
(6) Community Facilities/Other	
A. Place of worship/church	P
B. Day care facility, child or adult	P
C. School (public/private) elementary/secondary	P
D. School (public/private) college/university	P
E. Library, cultural institution	P
F. Public park, public playground	P
(7) Accessory Uses	
A. Accessory building	A
B. Fences and walls	A
C. Off-street parking and loading facilities	A
D. Parking structure	C
E. Signs	A
F. Detached decks, patio fireplaces, play structures, gazebos & pergolas	A
G. Outdoor dining (restaurant or tavern)	A
H. Outdoor Display	A
I. Private swimming pool	A
J. Solar panels	A
K. Trash receptacles	A

(Ord. 80-23. Passed 3-25-24.)

1163.05 LOT REGULATIONS.

(a) Lot Requirements. The minimum lot requirements for permitted uses in the Office Building Districts shall be as specified in Schedule 1163.05, except as otherwise regulated in Chapter 1183, Conditional Use Regulations.

(b) Schedule 1163.05 Lot Regulations.

Schedule 1163.05 LOT REQUIREMENTS	
	OB-1, OB-2, OB-3 Office Building Districts
(1) Minimum lot area	None
(2) Minimum lot width	None
(3) Lot Coverage by Building	40%

(Ord. 80-23. Passed 3-25-24.)

1163.07 SETBACK REQUIREMENTS.

(a) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required setback from a right-of-way as well as the required side and rear setbacks set forth in Schedule 1163.07, measured from the appropriate lot line, except as otherwise regulated in Chapter 1183, Conditional Use Regulations, for conditional uses. The area within the setbacks shall remain unobstructed by structures except as otherwise permitted in this Code.

(b) Schedule 1163.07 Minimum Building Setbacks.

Schedule 1163.07 Minimum Building Setbacks	
	OB-1, OB-2, OB-3 Office Building Districts
(1) Minimum/Maximum Setback from Street Right-of-Way	10 feet/25 feet
(2) Setback from Side Lot line abutting non-residential district	10 feet
(3) Setback from Rear Lot line abutting non-residential district	10 feet
(4) Setback from Side & Rear Lot line abutting residential district	25 feet

(Ord. 80-23. Passed 3-25-24.)

1163.09 HEIGHT REQUIREMENTS.

Buildings and structures shall comply with the following height regulations:

(a) The maximum height for principal buildings or structures in the Office Building Districts shall not exceed:

- (1) OB-1 - 55 feet
- (2) OB-2 - 75 feet
- (3) OB-3 - 95 feet

(b) The maximum height of accessory building or structures shall not exceed fifteen (15) feet. (Ord. 80-23. Passed 3-25-24.)

1163.11 OFF-STREET PARKING REGULATIONS.

Off-street parking areas shall conform to the regulations of Chapter 1187 and to the parking requirements set forth below:

(a) Schedule 1163.11 Minimum Parking Setbacks. Off-street parking shall be located in compliance with the minimum setbacks, measured from the street right-of-way or property line, as specified below unless otherwise noted. The area within the parking setbacks shall remain unobstructed by structures except as otherwise permitted in this Code.

Schedule 1163.11 Minimum Parking Setbacks	
	OB-1, OB-2, OB-3 Office Building Districts
(1) Minimum Setback from Street ROW	10 feet
(2) Setback from Side and Rear Lot line abutting non-residential district	10 feet ^(a)
(3) Setback from Side and Rear Lot line abutting residential district	15 feet ^(a)
^(a) The Planning Commission may permit a reduction in these spacing requirements when it determines that adequate privacy is provided through the use of landscaping, architectural features, or other similar means of insuring privacy.	

(b) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City's Law Director and the Planning Commission.

(c) Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback shall not be required.

(d) The area within the parking setback shall be landscaped in accordance with Chapter 1185, Landscaping and Screening Regulations.

(e) Off-street parking spaces shall be provided in compliance with Chapter 1187, Off-Street Parking and Loading Regulations.

(f) Loading and Service Areas.

(1) If separate loading and service areas are provided, these areas shall comply with the regulations in Section 1187.27, Off-Street Loading Requirements.

(2) If separate loading and service areas are provided, these areas shall be located in the rear yard, unless the Planning Commission determines that placement in a side yard would lessen the impact on adjacent residential uses.

(3) If separate loading and service areas are provided, these areas shall comply with the applicable parking setback requirements set forth in Schedule 1163.11 and shall be screened in accordance with the provisions set forth in Chapter 1185, Landscaping and Screening Regulations.

(Ord. 80-23. Passed 3-25-24.)

1163.13 ACCESSORY USE REGULATIONS.

(a) Fences and Walls. Fences and walls may be erected in compliance with the requirements set forth below.

(1) Location.

A. Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it, except property owners, with written permission from abutting property owners, may connect to fences on adjoining properties.

B. In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within twenty (20) feet, in any direction, of the following points:

1. At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);
2. At the intersection of a driveway and public right-of way;
3. At the intersection of any two driveways.

C. All fences shall comply with Section 1181.11, Visibility at Intersections.

(2) Materials and Construction.

- A. Approved fencing materials include stone, brick, finished wood, iron, or synthetic look-alike products.
- B. No fence shall be electrified or topped with barbed wire.
- C. Only ornamental fences shall be permitted in front of a building, unless required for screening pursuant to Chapter 1185, Landscaping & Screening Regulations.
- D. All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.
- E. All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Height. No fence shall exceed six (6) feet in height in any rear or side yard, or exceed three (3) feet in height when located in front of a building or in yards abutting a public street right-of-way, unless otherwise required by this Development Code.

(4) Screening and Landscaping.

- A. Screening and landscaping is not required for ornamental fences.
- B. All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
 - 1. Fences that are located within required building and parking setbacks shall be considered appropriately screened with the landscaping required in Section 1185.07, Landscaping along the Street Frontage and Parking Setback, is planted within five (5) feet of the fence and between the fence and the property line.
 - 2. Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:
 - (I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet;
 - (II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,
 - (III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.
- (5) All fences shall be maintained in good condition, be structurally sound, and attractively finished at all times.
- (6) Any proposed fence shall be approved as part of a Development Plan Review in accordance with Chapter 1127.

(b) Accessory Buildings. The height of the accessory building shall not exceed fifteen (15) feet. Accessory buildings that have a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the parking setbacks set forth in Schedule 1163.11. All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and development plan review and approval requirements of the zoning district in which the lot is located. (Ord. 80-23. Passed 3-25-24.)

1163.15 LANDSCAPING AND SCREENING REGULATIONS.

Visual screening and landscape buffers shall be provided for all lots in non-residential districts in accordance with the provisions set forth in Chapter 1185, Landscaping and Screening Regulations.

1163.17 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 shall comply with the minimum parking setbacks set forth in Schedule 1163.11 and shall be screened in accordance with the provisions set forth in Chapter 1185, Landscaping & Screening Regulations.
- (b) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in Chapter 1181, General Use Regulations.
- (c) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.
- (d) Outdoor Vending Machines. There shall be no outdoor vending machines, such as machines that dispense bottled beverages or packaged food.
- (f) Emission. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the Performance Standards in Chapter 1181, General Use Regulations.
- (g) Stormwater Detention/Retention Facilities. Detention/retention facilities that are visible from a public street shall be integrated into a landscaped area. Such landscaped areas shall contain any combination of the following elements: shade and ornamental trees, evergreens, shrubbery, hedges, and/or other planting materials as well as ornamental fencing.

1163.19 DEVELOPMENT PLAN REVIEW.

All uses in the Office Building Districts shall be permitted only after development plans have been reviewed and approved according to the procedures set forth in Chapter 1127, Development Plan Review Procedures.

6. OFF-STREET PARKING COUNT REQUIREMENTS

CHAPTER 1187

Off-Street Parking and Loading Regulations

- 1187.01 Intent.
- 1187.03 Parking facilities required.
- 1187.05 Expansion of existing parking lots and continuation of facilities.
- 1187.07 Units of measure.
- 1187.09 Off-street parking standards.
- 1187.11 Parking requirements for the CBD Central Business Mixed Use District.
- 1187.13 Deferred construction of required spaces.
- 1187.15 Allowance for shared parking.
- 1187.17 Allowance for off-site parking.
- 1187.19 Parking spaces for persons with disabilities.
- 1187.21 Location of required parking spaces.
- 1187.23 Off-street waiting/queuing spaces for drive-thru facilities.
- 1187.25 Parking design standards.
- 1187.27 Off-street loading requirements.
- 1187.29 Pedestrian ways.
- 1187.31 Regulations for access drives.
- 1187.33 Construction, use, improvement and maintenance standards.
- 1187.35 Parking lot landscaping and screening.
- 1187.37 Non-conforming parking facilities.
- 1187.39 Zoning Certificate and Development Plan required.

1187.01 INTENT.

Off-street parking and loading requirements and regulations are established in order to achieve, among other things, the following purposes:

- (a) To relieve congestion on streets so they can be utilized more fully for movement of vehicular traffic;
- (b) To lessen vehicular movement in the vicinity of intensive pedestrian traffic to promote safety and convenience;
- (c) To protect adjoining residential neighborhoods from excessive non-residential on-street parking;
- (d) To promote general convenience, welfare and prosperity of developments that depend upon off-street parking facilities;
- (e) To provide regulations and standards for the development of accessory off-street parking and loading facilities in accordance with objectives of the Master Plan and codes of the City of Rocky River;
- (f) To provide off-street parking, stacking and loading facilities in proportion to the need created by each use; and,
- (g) To provide for the accommodation of vehicles in a functionally and aesthetically satisfactory manner and to minimize external effects on adjacent land uses.

1187.03 PARKING FACILITIES REQUIRED.

Accessory off-street parking facilities, including access driveways, shall be provided prior to the occupancy of a 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) An existing building is altered and/or there is an increase in the number of dwelling units, seating capacity, the floor area of a building, or employees; or,
- (c) Whenever the use of an existing building is changed to a use that requires more off-street parking facilities.

1187.05 EXPANSION OF EXISTING PARKING LOTS AND CONTINUATION OF FACILITIES.

(a) At any time an existing parking lot or loading area is enlarged to cover a greater area, the entire parking lot and/or loading area shall be made to conform with the then current requirements for paving, storm sewer, and landscaping, to the maximum extent practicable as determined by the Planning Commission.

(b) Alterations or repairs may be made to any existing parking lot and/or loading area without requiring the existing facility to comply with all requirements of this Chapter, provided the alteration or repair conforms to the applicable requirements set forth herein.

(c) Off-street parking and loading facilities accessory to an existing use on the effective date of this Development Code, and those required as accessory to a use created or a building constructed or altered thereafter, shall be continued and maintained in operation, and shall not be used for any other outdoor uses and shall not be reduced below the requirements during the period that the principal use is maintained.

1187.07 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, unless specifically noted otherwise.
- (b) Seats. Where seating capacity is the standard for determining parking spaces, the capacity shall mean the number of seating units installed or indicated, or one seat for each 24 linear inches of benches or pews, or when fixed seats are not indicated, the capacity shall be determined as being one seat for each 20 square feet of gross floor area of the assembly room(s).
- (c) Employees. Where employees are the standard for determining parking space requirements, employees shall mean the maximum number of employees on the premises at one (1) time or on any two (2) successive shifts, whichever is greater.
- (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. Where a building or group of buildings contains two (2) or more uses, operating normally during the same hours, the number of parking spaces for each use shall be computed separately and the total spaces provided shall

not be less than the sum of the spaces required for each use, except as otherwise provided for in this Chapter.

1187.09 OFF-STREET PARKING STANDARDS.

The number of off-street parking spaces for each facility, establishment, or use in the Residential; Business, Public Facilities and the Mixed Use Overlay Districts shall be determined by application of the standards noted in Schedule 1187.09.

Schedule 1187.09

Required Off-Street Parking Spaces

Principal Building or Use	Minimum Parking Requirement ^{(a)(c)}	Maximum Number of Permitted Parking Spaces in the OB-1, OB-2, LB, GB, SM, PF, MX Districts
(a) Residential Uses.		
(1) Single-family detached dwelling, single-family detached grouped dwelling units	2 per dwelling unit, at least 1 enclosed	NA
(2) Two-family	2 per dwelling unit, at least 1 enclosed	NA
(3) Single-family attached dwelling, Multi-family dwelling	2 spaces per dwelling unit at least 1 enclosed in a garage, plus guest parking at the rate of 1 space for every 4 dwelling units	NA
(4) Bed and Breakfast	1 space per guest room; plus 2 spaces for owner's unit	NA
(5) Independent dwelling units in an Age Restricted Residential Development	2 spaces per unit	NA
(6) Congregate care facility/ nursing home	1 space per 2 beds	NA
(7) Adult care facility and residential facility	1 space per 2 beds	NA
(b) Community/Educational Facilities.		
(1) Church or other place of worship	1 space for every 6 seats in the portion of the building to be used for assembly use.	1 space for every 4 seats in the portion of the building to be used for assembly use, plus 1 parking space for every 200 square feet of floor area not designed to be used for assembly purposes.
(2) College, universities	1 space per 200 square feet of floor area in classrooms.	NA
(3) Library, cultural institution or similar use	3 spaces per 1,000 square feet of floor area	4 spaces per 1,000 square feet of floor area
(4) Kindergarten, nursery school, child or adult day care center	2 spaces per classroom but not less than 6 spaces for the building	NA
(5) Elementary and junior high/middle schools	2 spaces per classroom plus 1 space for every 4 seats in the largest auditorium or assembly room	NA
(6) High School	1 space per every teacher, employee and administrator, plus 1 space per 7 students, plus 1 space for every 4 seats in the largest auditorium or sports arena	NA
(7) Park/playground	5 spaces per acre + other use requirements	NA

(8) School, specialty/personal instruction	1 space for every instructor, employee and administrator, plus 1 space for every 2 students	NA
(9) Public safety facility	1 space per 200 square feet of floor area	NA
(c) Office, Professional Services		
(1) Business, professional and administrative office (excluding medical and dental)	3 spaces per 1000 square feet of floor area	5 spaces per 1000 square feet of floor area
(2) Banks, financial institutions	3 spaces per 1000 square feet of floor area	4 spaces per 1000 square feet of floor area
(3) Medical/Dental Office; Medical/dental/health services clinic, including urgent care clinic	4 spaces per 1000 square feet of floor area	6 spaces per 1000 square feet of floor area
(4) Hospital	1 space for every 2 beds, plus 1 space for every 3 employees	NA
(5) Scientific research, development, training and testing facility	1 space per 400 square feet of floor area	1 space per 400 square feet of floor area plus one space for each 200 square feet of gross area used for office space
(d) Retail/Personal Services		
(1) Animal boarding facility	1 space per 1000 square feet of floor area	2 spaces per 1000 square feet of floor area
(2) Animal hospital/clinic	For each Doctor of Veterinary Medicine practicing at said hospital, there shall be five (5) off-street parking spaces	For each Doctor of Veterinary Medicine practicing at said hospital, there shall be five (5) off-street parking spaces plus one (1) additional space per employee
(3) Retail establishment, business or personal service establishment (except as otherwise specified below)	4 spaces per 1000 square feet of floor area	5 spaces per 1000 square feet of floor area
(4) Beauty salons and barber shops	2 spaces per beauty or barber chair	2.5 spaces per beauty or barber chair
(5) Funeral home	1 space per 50 square feet of floor area of sitting or service rooms, plus one space for each vehicle maintained on the premises	1 space for every 30 square feet of floor area of sitting or service rooms, plus 1 space for each vehicle maintained on the premises
(6) Hotel, motel	1 space per guest room or unit, plus 1 space for every 2 employees	1 per guest room or unit, plus 1 per each employee

<p>(7) Restaurant</p> <ul style="list-style-type: none"> - Restaurant (including bars/taverns) -- Table Service - Sit down restaurant - Restaurant - Counter service when located in a shopping center (b) - Restaurant - Counter Service when located as the only use in a free-standing building -- Drive In & Carry Out 	<p>1 space per 50 sq. ft. of indoor customer service area 10 spaces, or 1 space per 50 square feet of floor area, whichever is greater, plus 1 space for each delivery vehicle</p> <p>20 spaces, or 1 space per 50 square feet of floor area, whichever is greater, plus 1 space for each delivery vehicle</p>	<p>1 space per 40 sq. ft. of indoor customer service area 10 spaces, or 1 space per 50 square feet of floor area, whichever is greater, plus 1 space for each delivery vehicle</p> <p>25 spaces, or 1 space per 50 square feet of floor area, whichever is greater, plus 1 space for each delivery vehicle</p>
(e) Entertainment - Recreation.		
(1) Assembly hall/membership club/conference center	1 space for every 6 seats	1 space for every 4 seats
(2) Theater, indoor	1 space for every 4 seats	1 space for every 3 seats
(3) Bowling alley	4 spaces per bowling lane, plus 1 space per 100 square feet of floor area used for a restaurant or lounge.	5 spaces per bowling lane, plus 1 space per 100 square feet of floor area used for a restaurant or lounge
(4) Commercial recreation, indoor	4 spaces per 1,000 square feet of floor area	5 spaces per 1,000 square feet of floor area
(5) Commercial recreation, outdoor	1 space per 1,000 square feet of recreation area	1 space per 250 square feet of recreation area
(6) Skating rink	1 space per 100 square feet of floor area (including lounging and spectator area)	1.5 space per 100 square feet of floor area (including lounging and spectator area)
(7) Health club	1 space per 250 square feet of exercise area, including locker and equipment rooms.	1 space per 200 square feet of exercise area, including locker and equipment rooms.
(8) Golf course (9 holes or more)	8 spaces per green	NA
(9) Video game center	.5 space per device in addition to the parking requirements of the principal use of the building or, if the gaming room is the main use, 1 space per each device plus 1 space for each 250 sq. ft. of floor area	1 space per device in addition to the parking requirements of the principal use of the building or, if the gaming room is the main use, 1 space per each device plus 1 space for each 200 sq. ft. of floor area
(10) Miniature golf	1 space per hole	2 spaces per hole
(11) Swimming pools, public or private (not associated with residences)	1 space for every 5 persons, based on pool capacity	NA
(12) Tennis courts	4 spaces per court	NA

(f) Automotive Uses.		
(1) Gasoline station/pumps	2 per pump + other use requirements	NA
(2) Automotive service station; vehicle repair garage; motor vehicle body shop	2 spaces per service bay, plus 1 space for every employee, but never less than 5 spaces	NA
(3) Motor vehicle sales and rental	1 space per 400 square feet of floor area of sales room, plus 1 space for each auto service stall in the service room and 1 space per employee	NA
(4) Car wash	2 per wash bay	NA
(g) General Commercial and Industrial Uses.		
(1) Distribution, warehouse facility, wholesale	2 spaces for each employee on the largest working shift	NA
(2) Self-storage facility, indoor	When an on-site leasing or project office is provided, 1 parking space for each 100 storage units. When no on-site office is provided, no spaces are required. Required parking spaces shall not be rented, leased, or used as vehicle storage areas.	NA
(3) All other general commercial uses	1 space per 250 square feet of floor area	1 space per 200 square feet of floor area
(4) All other service manufacturing uses	1 space for every 1.5 employees on the largest working shift or one (1) space per every five hundred (500) sq. ft. of floor area whichever is greater, plus 1 space for every company-owned car, truck or other vehicle	NA
<u>Notes to Schedule 1187.09:</u> (a) A minimum of five (5) spaces is required for each facility other than a single-family detached, single-family detached grouped units, single-family attached or two-family dwellings. (b) 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. (c) For specific buildings or uses not scheduled above, the Planning Commission shall apply the unit of measurement set forth in the above schedule which is deemed to be most similar to the proposed building use. NA = Not Applicable		

1187.11 PARKING REQUIREMENTS FOR THE CBD CENTRAL BUSINESS MIXED USE DISTRICT.

In recognition of the historic, compact character of buildings in the Central Business Mixed Use District, the Planning Commission may approve a development plan with up to a fifty percent (50%) reduction in the requirements of Schedule 1187.09, Required Off Street Parking Spaces, for non-residential uses. To request such a reduction, an applicant shall submit a parking assessment, at the time a preliminary development plan is submitted, that includes the information detailed in Section 1187.11 (b).

- (a) In making a determination for such a reduction, the Planning Commission shall consider the following criteria:
 - (1) The character of the proposed use and the ability of the proposed use to reinforce the central business district environment;
 - (2) The availability and accessibility of public parking spaces, both on-street and within public parking lots;
 - (3) The availability and proposed usage of parking areas on adjacent and nearby sites, considering the hours of operation of the proposed use compared to adjacent uses; and,
 - (4) The potential negative impact to the character of Downtown Rocky River if the requisite number of parking spaces are provided.
- (b) The parking assessment shall include a description of the use and its anticipated relationship to, and impact on, the surrounding community. At a minimum, the assessment shall include the following:
 - (1) The nature of the proposed uses, activities and events that will be accommodated.
 - (2) The maximum design capacity of the facility.
 - (3) The anticipated pattern of use, including peak hours.
 - (4) The estimated traffic generation and parking demand, including the estimated number of parking spaces required at peak capacity.
 - (5) The number of parking spaces required according to Schedule 1187.09 compared to the number of spaces proposed.

- (6) The current supply and utilization of parking spaces in the immediate area.
- (7) How any available spaces meet the needs of the proposed use.
- (8) Suggested parking management solutions to address any anticipated discrepancy between the number of parking spaces available and anticipated parking demand.
- (c) Required parking spaces in the CBD, even if the required number of spaces is reduced pursuant to this Section, may be provided in compliance with Section 1187.15 , Allowance for Shared Parking, and in compliance with Section 1187.17 , Allowance for Off-Site Parking.

1187.13 DEFERRED CONSTRUCTION OF REQUIRED SPACES.

If the number of parking spaces required by this Chapter for a non-residential use is substantially larger than the number anticipated by the applicant and the applicant provides sufficient evidence that supports the reduced parking needs, a development plan may be approved with an allowance for the construction of a lesser number of parking spaces provided that:

- (a) The total number of spaces initially constructed and/or an area set aside on the site of the principal use shall not be less than seventy percent (70%) of the spaces required by this Chapter.
- (b) Suitable additional area(s) are reserved for the construction of the balance of the total number of spaces otherwise required by this Chapter. Such suitable areas shall be illustrated on the development plan in locations and with landscaping in full compliance with this Development Code.
- (c) The Planning Commission, upon reevaluation of the project's parking needs, may at any time direct that some or all of the parking spaces identified in sub-section (b) be constructed.
- (d) When additional parking is determined necessary, it shall be provided according to the approved development plan.

1187.15 ALLOWANCE FOR SHARED PARKING.

Two or more uses may share parking facilities without providing the minimum number of on-site required spaces for each use, when parking spaces are provided in compliance with all the requirements of this Section.

- (a) The minimum required number of parking spaces for the combined uses may be reduced by twenty (20) percent for shared parking when hours of operation overlap. Residential uses shall not be allowed to share parking facilities.
- (b) When the hours of operation DO NOT overlap, the parking facility to be shared shall contain at least the minimum required spaces of the largest individual use sharing the lot.
- (c) The parking facility to be shared shall be owned by the owner of one of the uses or leased for at least a 20-year term or through a permanent easement by the owner of the uses being served. Such lease or easement shall be approved by the Zoning Administrator and the Law Director.
- (d) No changes shall be made to the shared parking facility that would reduce the parking provided for the uses, unless the owner of one of the uses makes other arrangements to provide parking. No such changes shall be made without Zoning Administrator approval prior to any changes taking place.
- (e) Parking spaces to be shared shall not be reserved for a specific person, individual, or use on a twenty-four-hour basis.
- (f) Handicap parking spaces shall not be shared, unless the uses that are to share the spaces are adjacent to the handicap spaces and no inconvenience to the users of such spaces would be created.
- (g) Loading spaces shall not be shared.
- (h) Any proposed change in the use of a structure that shares a parking facility will require proof to the Zoning Administrator that adequate parking is available.
- (i) Parking facilities to be shared shall be located on the same lot or lots as the use for which the parking spaces are intended, except when the parking facility complies with all the requirements of Section 1187.17 , Allowance for Off-site Parking.

1187.17 ALLOWANCE FOR OFF-SITE PARKING.

All off-street parking spaces shall be located on the same lot as the structure or use, except when parking spaces are provided in compliance with all the requirements of this Section.

- (a) The use shall supply at least fifty percent (50%) of its required spaces on-site. The Planning Commission may grant an exception to this requirement under the following criteria:
 - (1) Proximity of the proposed parking area to the use served;
 - (2) Ease and safety of access between the proposed parking area and the use served;
 - (3) The use to be served by the off-site parking; and,
 - (4) The hours of operation of the use to be served by the off-site parking.
- (b) Off-site spaces shall be within 800 feet walking distance, measured along the route of public access to the property, of a building entrance or use. If the pedestrian access is to cross an arterial street, appropriate safety measures shall be present to help the pedestrian cross the street. In any event, safe and convenient pedestrian access, such as a sidewalk or path, shall exist or be provided from the building or use to the parking lot.
- (c) Contiguous lots providing off-street parking for more than one use shall provide sufficient spaces to comply with the combined total parking requirements for all uses except when the allowance for shared parking is granted in compliance with Section 1187.15 , Allowance for Shared Parking.
- (d) The off-site lot may be located in a different zoning district than the structure or use it serves if a parking facility is permitted in the different zoning district.
- (e) The lot used for an off-site parking facility shall be owned by or leased for at least a 20-year term or through a permanent easement by the owner of the use being served. The Zoning Administrator and the Law Director shall approve such lease or easement. If the term of the use is limited by a conditional use certificate, then the term of the lease agreement may be limited accordingly. At the expiration of the term of a lease, the owner shall replace the off-site parking or end the use that required the parking.
- (f) No changes shall be made to the off-site parking lot that would reduce the parking provided for the use, unless other arrangements to provide parking are made by the owner of the use. Those arrangements shall be approved by the Zoning Administrator prior to any changes taking place.
- (g) All required handicapped parking spaces for a use shall be located on-site.

(h) All required loading spaces shall be located on-site.

(i) An existing non-conforming parking lot to be used under this Section as off-site parking shall be landscaped, paved and striped according to the standards of this Chapter and the Development Code.

1187.19 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.

1187.21 LOCATION OF REQUIRED PARKING SPACES.

In addition to specific requirements contained in each district regulation, the location of off-street parking facilities shall further be regulated according to the following provisions:

- (a) Off-street parking spaces required for dwelling units shall be located on the same zoning lot as the dwelling unit served. The total number of accessory parking spaces provided for any dwelling unit shall not exceed the spaces required by more than fifty percent (50%) unless permitted by a variance granted by the Board of Zoning and Building Appeals.
- (b) Required guest parking, in a multi-family or a single-family attached development, shall be equally distributed throughout the development.
- (c) Off-street parking spaces for non-residential uses shall be located on the same lot as the structure or use unless off-site parking is provided pursuant to Section 1187.17, Allowance for Off-site Parking.
- (d) All required off-street parking spaces shall have direct access to an aisle or driveway without the need to move any other vehicle, except as otherwise specifically permitted in this Chapter.
- (e) Parking Lots Adjacent to Buildings. Off-street parking spaces for other than single or two-family dwellings shall be located at least ten (10) feet from any wall of a building if such wall contains ground floor openings other than a garage door providing access, light, or ventilation to the building.
- (f) Parking in Designated Areas Only. Any vehicle customarily or seasonally parked on any lot shall be so parked only in parking areas specifically constructed for such purposes, and shall not be parked on tree lawns, sidewalks, lawns or other areas required by this Code to be landscaped.
- (g) Areas Computed as Parking Spaces. Areas that may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or driveway, except as specifically permitted below:
 - (1) For a single family detached, single-family attached, or two-family dwelling, a driveway in the front or side yard shall be permitted to compute as eligible parking space(s) up to a maximum of one (1) parking spaces per dwelling unit.
 - (2) In a multi-family development including attached single-family dwellings and a single-family detached grouped units, any dwelling unit that has its own separate and individual private driveway shall be permitted to compute as eligible those parking spaces located in the private driveway, up to a maximum of one (1) parking spaces per dwelling unit.
- (h) Restricted Parking. In all non-residential districts, at least eighty percent (80%) of the required parking spaces shall be provided in the form of unrestricted parking areas accessible to all owners, occupants, employees, customers or tenants of the main use.

1187.23 OFF-STREET WAITING/QUEUING 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/queuing areas, on the same lot as the use, in addition to the required number of parking spaces specified in Schedule 1187.09, in accordance with the following in Schedule 1187.23:

(a) Schedule 1187.23 Minimum Number of Waiting/Queuing Spaces:

(1) Establishments serving and/or selling food and/or drinks:	Twelve (12) waiting/queuing spaces per order board or station, as measured from the order board or station.
(2) Automatic car wash facilities where a chain conveyor or other similar method is used to move the vehicle through the structure:	Twelve (12) waiting/queuing spaces
(3) Facilities with service windows or service entrances such as banks, drug stores, dry cleaners, ticket booths, drive-up ATM machines and other similar facilities:	Four (4) waiting/queuing spaces for the first drive-thru window or stall and two (2) waiting/queuing spaces for each additional window or stall
(4) Self-serve car wash facilities:	Two (2) waiting/queuing spaces per stall
(5) Gasoline stations:	Two (2) waiting/queuing spaces per accessible side of a gasoline pump island
(6) All other uses	Three (3) waiting/queuing spaces for each window or stall

- (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/Queuing Space Dimensions. Each off-street waiting/queuing space shall have an area not less than 144 square feet (measuring 8 feet by 18 feet) exclusive of access drives and parking aisles and shall not interfere with parking or circulation.
- (d) Change in Required Waiting/Queuing Spaces.
 - (1) The Planning Commission may require additional waiting/queuing spaces to adequately serve the establishment.

- (2) The Planning Commission may reduce the number of required waiting/queuing spaces when the applicant provides credible documentation, such as studies from similar sites, that fewer than the required number of waiting/queuing spaces does not impede vehicular traffic flow on and off the site as well as ingress/egress to the site.
- (e) A separate, clearly-defined vehicle lane shall be provided for any drive-through window, and such lane shall be defined by striping, curbs and/or landscaping as determined to be appropriate and approved by the Planning Commission.
- (f) Access, waiting/queuing spaces and all other vehicular circulation shall be clearly defined and well marked to assure the public's safety and convenience. The circulation plan may be referred to the City Engineer for input and any additional, reasonable requirements deemed necessary to assure such safety and convenience.
- (g) No waiting/queuing spaces or drive-through window shall be permitted within twenty (20) feet of any rear lot line, within twenty (20) feet of any side lot line, nor within thirty-five (35) feet of any property zoned for residential use. The Planning Commission may modify this buffer yard requirement pursuant to sub-section 1185.11 (h), Modifications to Buffering and Screening Requirements.
- (h) No waiting/queuing spaces for a drive-through service shall be permitted which would obstruct access into or out of any off-street parking space on the property.
- (i) Drive-in and drive-thru lanes, waiting/queuing spaces, speakers, & order windows shall not be located in the required front, side, or rear setbacks including the required setback adjacent to street rights-of-way. Drive-thru lanes and required waiting/queuing spaces shall not occupy any required parking space or driveway required to access these spaces. (Ord. 65-23. Passed 10-23-23.)

1187.25 PARKING DESIGN STANDARDS.

Parking areas or parking lots included with an application to construct a building or parking area, or change in use, shall be designed and dimensioned in accordance with the Standards for Designing Parking Areas, inserted at the end of this Chapter and which is part of this Development Code.

1187.27 OFF-STREET LOADING REQUIREMENTS.

Loading and unloading facilities shall be provided prior to occupancy of every non-residential building hereafter erected, altered, or to be occupied by a new user, and shall be maintained as long as such building is occupied or unless equivalent facilities are provided in conformance with the regulations of this chapter.

- (a) Authority of the Planning Commission. The Planning Commission may waive loading/unloading requirements based on the character of the proposed use or the impracticality of adding loading/unloading facilities to existing buildings.
- (b) Location. All loading spaces shall be located on the same lot as the use served, in a manner that enables the orderly and safe movement of trucks and no part of any required setback, off-street parking area, nor access drive thereto, shall be used for loading or unloading purposes, except that the Planning Commission may allow two or more uses to cooperatively provide off-street loading/unloading spaces, subject to the assurance of permanent availability. No such space shall be located closer than fifteen (15) feet to any other lot in any Residential District, unless wholly within a completely enclosed building or unless enclosed on all sides facing lots in any Residential District by a wall or fence not less than six (6) feet in height.
- (c) Size of Loading Spaces. Each loading space shall be ample to accommodate the largest vehicle anticipated.
- (d) Off-street loading spaces shall not be used for repair or servicing of motor vehicles.
- (e) Access Driveways. Each required off-street loading/unloading space shall be designed for direct vehicular access by means of a driveway, or driveways, to a public or private street in such a manner that will least interfere with traffic movements and lane encroachment, provided, however, that loading/unloading shall not be from the public right-of-way except in situations of existing commercial facilities in the Central Business Mixed Use District (CBD) where no other opportunity for loading/unloading exists.
- (f) Minimum Loading Spaces Required. For non-residential buildings, one (1) off-street loading space shall be provided for a building not exceeding twenty thousand (20,000) square feet of floor area, and one (1) additional space for each forty thousand (40,000) square feet of additional floor area

1187.29 PEDESTRIAN WAYS.

The Planning Commission may require pedestrian ways, and other areas within parking lots that shall be devoted to pedestrian use for the purpose of separating vehicular and pedestrian traffic and providing the maximum safety and convenience.

- (a) Such pedestrian ways shall be planned, designed, and located based on accepted engineering and land planning principles and subject to the approval of the Planning Commission.
- (b) Said pedestrian ways shall be paved and drained as required by this Development Code and/or in accordance with any applicable municipal regulations as is appropriate to their location and traffic conditions.

1187.31 REGULATIONS FOR ACCESS DRIVES.

The location and number of entrance and exit access drives to accessory parking spaces shall be in accordance with the following:

- (a) Ingress and Egress. Entrances to parking spaces shall be only from an adjoining public street or alley or from a permanent private, access easement. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.
 - (b) Location. The location and width of entrance and exit access drives 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.
 - (c) Interconnected Drives. The Planning Commission may require parking areas serving adjacent business establishments to be interconnected by drives and designed to provide the maximum safety and convenience.
- (Ord. 71-21. Passed 6-13-22.)

1187.33 CONSTRUCTION, USE, IMPROVEMENT AND MAINTENANCE STANDARDS.

All driveways, parking areas, waiting areas, queuing areas, loading/unloading areas shall be constructed in accordance with standards established by the City Engineer and the following:

- (a) Grading and Pavement. Parking areas and access driveways shall be so graded and drained so as to dispose of all surface water and drainage into proper outlets so that such surface water and drainage shall not be allowed to flow onto adjacent properties or remain standing in said driveways or parking areas. In other than one or two family uses all surface water and drainage

shall not be allowed to flow across a public sidewalk. All parking areas and driveways improved or constructed shall be bituminous or Portland cement pavement, brick pavers, embossed concrete, or other approved pavement materials in accordance with standards established by the City and approved by the City Engineer and the Planning Commission. All existing gravel or other non-paved parking areas and driveways shall be maintained so as not to create a hazard. Gravel or other driveway material shall not collect on sidewalks, driveway aprons or public right of way. For purposes of this Section "improved or constructed" is not intended to include maintenance.

- (b) Design of Parking Areas for Other Than Single Family Detached and Two Family Dwellings. Parking areas other than for single-family detached and two-family dwellings shall be so arranged and marked as to provide for orderly and safe parking and storage of vehicles in accordance with the design standards in this Chapter. Parking areas shall be improved, except at entrances and exits, with curbs or other devices to define parking spaces or limits of paved areas, if necessary. Curbs or other devices shall be provided along the perimeter of any parking area, around landscape areas, or a driveway that is within six (6) feet of a public sidewalk or of a lot line of an adjoining parcel, so as to prevent encroachment of vehicles into adjacent areas or public ways, yards, landscape areas, or setbacks required by this Code, city ordinances and regulations adopted thereunder, and so as to regulate the flow of traffic within the lot.
- (c) Parking Setbacks for One and Two-Family Uses. Parking areas, including driveways, for single family detached and two family dwellings shall be located not less than three (3) feet from adjoining property lines.
- (d) Illumination in Parking Areas. Parking areas shall be illuminated whenever necessary to protect the public safety. All lighting shall comply with the regulations in Chapter 1181, General Use Regulations.
- (e) Marking. Any off-street parking area for five (5) or more parking spaces and all waiting/queuing spaces shall indicate the location of each parking or waiting/queuing 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.
- (f) Signs. Signs may be provided only in accordance with Chapter 1193, Sign Regulations.
- (g) Maintenance. All parking areas, waiting/queuing spaces, and loading spaces shall be maintained in a manner to keep it as free as practicable from rubbish, paper and other loose particles, and snow and ice shall be promptly removed by the operator. All adjacent sidewalks shall be kept free from dirt, ice, sleet and snow and in a safe condition for use by pedestrians. 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. It shall be the responsibility of the property owner to maintain and repair parking lots and loading areas as may be necessary, in the opinion of the Municipality, so as to provide a continuous, hard, dustless surface in good condition, properly drained, and free of obstructions and nuisances in accordance with the requirements of this Chapter.

1187.35 PARKING LOT LANDSCAPING AND SCREENING.

Parking areas shall be landscaped, screened and buffered in conformance with the regulations set forth in Chapter 1185, Landscaping and Screening Regulations.

1187.37 NON-CONFORMING PARKING FACILITIES.

A building or use existing lawfully at the time of this Development Code, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations for the use may continue without such parking facilities. In the event an existing building is altered or a use is changed or substituted, in accordance with the regulations in Chapter 1139, Non-conforming Uses, Lots, and Structures, then additional off-street parking spaces shall be provided in compliance with this Chapter 1187, if this Code requires such additional parking spaces as a result of the proposed changes.

1187.39 ZONING CERTIFICATE AND DEVELOPMENT PLAN REQUIRED.

All facilities governed by the regulations in this Chapter, as set forth in Sections 1187.03 and 1187.05, shall comply with the zoning approval process.

- (a) Facilities provided for single-family detached and two-family dwellings shall obtain a zoning certificate in compliance with Chapter 1129, Zoning Certificates and Certificates of Zoning Compliance.
 - (b) Detailed drawings showing the features of off-street parking facilities, waiting/queuing spaces, and loading/unloading areas shall be submitted to the Zoning Administrator for development plan review as required by Chapter 1127, Development Plan Review Procedures.
 - (c) City Engineer. The City Engineer shall review and approve all requests for access to public rights-of-way prior to construction. All improvements, curb cuts, and approaches in the public right-of-way shall be constructed pursuant to this Chapter and all applicable municipal regulations.
-

7. PROVISIONS FOR NON-COMPLIANCE & NON-CONFORMITIES

Non-conforming Uses, Lots and Structures

- 1139.01 Intent.**
- 1139.03 Lawful non-conformance.**
- 1139.05 Non-conforming uses of buildings, structures or land.**
- 1139.07 Non-conforming buildings and structures.**
- 1139.09 Non-conforming lots.**
- 1139.11 Non-conforming signs.**
- 1139.13 Non-conforming parking facilities.**
- 1139.15 Non-conforming site conditions existing at the time of development plan review.**
- 1139.17 Existing use deemed conditional use; permit required for change.**
- 1139.19 Completion of construction with Zoning Certificate.**

1139.01 INTENT.

The purpose of this Chapter is to recognize the existence of uses, buildings, lots and structures that lawfully existed at the time of this Development Code's enactment, or amendment thereto, but which now do not conform with one or more of the regulations contained in this Development Code. Non-conforming uses of structures and/or land are considered by this Code to be incompatible with the provisions applicable in the district in which such uses are located. In addition, it is recognized that there are lots, buildings, parking lots, signs, and other structures that do not conform to the zoning regulations in this Code. Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of non-conforming uses, non-conforming buildings/structures, and non-conforming lots are established in order to achieve the following purposes:

- (a) To permit the continuance but control of non-conforming uses so as to minimize any adverse effects the uses might have on the adjoining properties and development;
- (b) To continue the maintenance and repair of non-conforming uses;
- (c) To restrict the rebuilding of non-conforming uses, if substantially destroyed;
- (d) To require conformity if a non-conforming use is discontinued, to bring about eventual conformity of all uses in accordance with the objectives of the Master Plan and the Development Code of the City;
- (e) To establish regulations for the development of sites containing non-conforming site conditions;
- (f) To establish regulations for the development of non-conforming lots; and,
- (g) To establish regulations for the use, restoration, reconstruction, and expansion of structures that do not conform to the standards set forth in this Development Code.

1139.03 LAWFUL NON-CONFORMANCE.

The provisions of this Chapter shall apply to any building, structure, land, site condition, or other use hereafter becoming non-conforming as a result of the adoption of this Development Code as well as amendments made to this Development Code or the Official Zoning Map.

- (a) The lawful use of any dwelling, building or structure and of any land or premises as existing and lawful at the time of enacting this Code, or any amendments thereto, may be continued although such use does not conform to the provisions of this Code. The completion, restoration, reconstruction, extension or substitution of non-conforming uses shall be subject to the provisions and conditions set forth in this Chapter.
- (b) A non-conforming lot, use, building or structure does not include non-conformity with regulations pursuant to a legally granted variance from a zoning regulation.
- (c) Ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing may be performed on a non-conforming structure or on any portion of a structure that contains a non-conforming use provided that the cubic content shall not be increased and 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.

1139.05 NON-CONFORMING USES OF BUILDINGS, STRUCTURES OR LAND.

A non-conforming use may be continued so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following regulations:

- (a) Change or Substitution to Another Non-conforming Use. A non-conforming use of a building, structure or land shall not be changed or substituted to another non-conforming use unless:
 - (1) Appeals. Board of Zoning and Building Appeals finds that the use proposed is equally appropriate or more appropriate to the district than the existing non-conforming use, and that the use proposed is in less conflict with the character of uses permitted in the applicable zoning district than the existing non-conforming use. In permitting such change, the Board of Zoning and Building Appeals may prescribe appropriate conditions and safeguards in accordance with other provisions of this Development Code and when made a part of the terms under which the change is granted.
 - A. Whenever a non-conforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive non-conforming use.
 - B. Whenever a non-conforming use is changed to a use permitted in the district in which the lot is located, it shall cease to be considered a non-conforming use. Upon such compliance, no non-conforming use shall be made, resumed or reinstated.
 - C. Violation of any conditions and/or safeguards prescribed shall be deemed a violation of this Development Code and shall be punishable under Chapter 1141, Enforcement and Penalties.
 - (2) An application is filed with the Board of Zoning and Building Appeals and such application includes payment of the fee

established by the City.

(b) Land Occupied by Non-conforming Use.

- A. Expansion of Non-conforming Use of Land. A non-conforming use of land shall not be physically enlarged, increased, nor extended to occupy a greater area of land than was occupied by the use at the time it became non-conforming, unless otherwise specified.
- B. Relocation of Non-conforming Use of Land. A non-conforming use of land shall not be moved in whole or in part to any portion of the lot or parcel other than those portions occupied by the use at the time it became non-conforming.

(c) Structures Occupied by Non-conforming Use.

- (1) Extension of Non-conforming Use within Building. A non-conforming use of an existing structure may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment to this Development Code. However, no such use shall be extended to occupy any land outside such building not previously occupied by such non-conforming use.
 - (2) Expansion of Building(s). No such building shall be enlarged or expanded to increase the non-conforming use, and no additional structures shall be constructed in connection with such non-conforming use unless the Board of Zoning and Building Appeals determines that the proposed changes, additions and/or improvements shall upgrade the activity and make the resulting development more compatible to the district for which it is zoned and more compatible with the adjacent uses. In making this determination, the Board of Zoning and Building Appeals shall consider the following:
 - A. Hours of operation;
 - B. Volume and type of sales;
 - C. Type of processing activity;
 - D. Nature and location of storage;
 - E. Traffic generation by volume, type, and characteristics;
 - F. Parking and loading characteristics; and,
 - G. Noise, smoke, odor, glare, vibration, radiation, and fumes.
 - (3) Alteration or Reconstruction of a Building Occupied by a Non-conforming Use. No building or structure occupied by a non-conforming use shall be altered, improved, or reconstructed except when the use is changed to a use permitted in the district in which it is located, or upon prior approval of the Board of Zoning and Building Appeals and the Board of Appeals determines that the proposed changes, additions and/or improvements shall upgrade the activity and make the resulting development more compatible to the district for which it is zoned and more compatible to the adjacent uses.
 - (4) Damage or Destruction. In the event a building or structure that is occupied by a non-conforming use is destroyed by any means to the extent of more than 50% of its replacement value, 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.
- (d) Discontinuance of Use. Whenever a non-conforming use of a building, part of a building, lot or part of a lot is discontinued for one (1) year, such discontinuance shall constitute voluntary abandonment of such use and any subsequent use of the building, part of a building, lot or part of a lot shall conform to the use regulations specified by this Code for the district in which such land is located.

1139.07 NON-CONFORMING BUILDINGS AND STRUCTURES.

A non-conforming 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) Enlargement, Repair, and Alterations. A non-conforming building or structure may be enlarged, maintained, repaired, or structurally altered provided the additions are made to conform to all the regulations of the district in which it is located. However, no such enlargement, maintenance, repair, or structural alteration shall either create any additional non-conformity or increase the degree of the existing non-conformity of all or any part of such building or structure with respect to the regulations in this Development Code.
- (b) Moving. No building or structure which is non-conforming under this Development Code shall be moved in whole or in part to any other location on the same or any other lot unless the entire building or structure shall thereafter conform to the regulations of the district in which it is located after being moved.
- (c) Restoration of Damaged Building or Structure. If a non-conforming building or structure is damaged or destroyed by any means, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure, provided the reconstruction is begun within six (6) months of the damage or destruction. Any restoration that exceeds the original footprint and/or floor area shall comply with sub-section 1139.07 (a), Enlargement, Repair, and Alterations.
- (d) Change in Principal Use of Building. The principal use of a non-conforming building 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 regulations of this Development Code specified for such use, except the regulations to which the building did not conform prior to the change in use.
- (e) Variances from district regulations on area, lot coverage, lot width, height, setbacks, location on the lot may be granted by the Board of Zoning and Building Appeals where necessary and where such appeal for a variance meets the requirements of sub-section 1133.17 (c)(1), Area Variance.

1139.09 NON-CONFORMING LOTS.

A lot of record that, on the effective date of this Development Code, or any amendment thereto, does not comply with the lot area and/or lot width regulations of the district in which the lot is located may be used as follows:

(a) Existing Buildings on Non-Conforming Lots of Record.

- (1) Existing Building on a Non-residential Non-Conforming Lot. If a non-conforming lot is occupied by a building, such building 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 Development Code, except the lot area and lot width regulations of the district in which the lot is located.

- (2) Existing Dwelling on a Residential Non-Conforming 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 Development Code, except for the lot area and lot width regulations of the district in which the lot is located.
- A. Structural alterations or extensions of a residential structure which is non-conforming only by reason of lot size or lot width shall be permitted in accordance with all applicable regulations of the Development Code and upon approval by the Zoning Administrator.
- B. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.
- (b) Vacant Non-conforming Lot(s) of Record.
- (1) Non-conforming Lot(s) of Record in a Residential District. A non-conforming lot in a Single-family or Two-family Residential District that is in separate ownership and not of continuous frontage with other lots in the same ownership shall be permitted to be developed as a site for a single-family detached dwelling and customary accessory buildings provided:
- A. Such dwelling and its accessory uses shall comply with all regulations of this Development Code, except for the lot area, lot width and side setback regulations of the district in which the lot is located. Each side setback shall be a minimum of five (5) feet.
- B. Review and approval of development on such lots of record shall be conducted according to the procedures set forth in Section 1129.05, Zoning Certificate for Single-family Detached Dwellings & Two-family Dwellings & Use Accessory Thereto.
- C. There is evidence of adequacy of all required utilities and services from all applicable approving authorities.
- D. Variances of requirements from district regulations other than lot area or lot width shall be obtained through action of the Board of Zoning and Building Appeals as provided in Section 1133.17 (c)(1), Area Variance.
- (2) Vacant Non-conforming Lot in a Multi-family or Non-residential District. A vacant non-conforming lot in a Multi-family District or non-residential district may be used for any use permitted in the district in which it is located when the development of such lot meets all requirements of the district in which it is located, including the maximum lot coverage and minimum setback requirements, except for the minimum lot area and lot width requirements, except that no use that requires a greater lot size than the established minimum lot size for a particular district shall be permitted on a non-conforming lot. Review and approval of development on such lots of record shall be conducted according to the development plan review requirements set forth in Chapter 1127.

1139.11 NON-CONFORMING SIGNS.

A sign, lawfully existing at the time this Development Code, or any amendment thereto, became or becomes effective, but which does not comply with the sign regulations of the district in which it is located is a non-conforming sign. Non-conforming signs shall comply with the regulations set forth in Section 1193.09, Regulations for Non-conforming Signs.

1139.13 NON-CONFORMING PARKING FACILITIES.

For a building or use existing lawfully at the time of this Development Code, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations, see Section 1187.37, Non-conforming Parking Facilities.

1139.15 NON-CONFORMING SITE CONDITIONS EXISTING AT TIME OF DEVELOPMENT PLAN REVIEW.

If a non-conforming site condition(s) exists when a revised development plan is required pursuant to Chapter 1127, then such site condition(s) shall be brought into compliance with district regulations, unless the Planning Commission determines that such conformance cannot be reasonably achieved because of existing site conditions. Existing site conditions include, but are not limited to, the existing lot configuration and patterns of surrounding development; inability of the applicant to acquire additional property; location of the existing structures on the site in question; the location of parking and access on the site in question, and the location of utilities both on and off-site. In such case, the Planning Commission shall approve a development plan that reduces the existing non-conforming site condition(s) to the maximum extent practicable.

1139.17 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 Development 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 conditional use. Any change, modification, enlargement or alteration of such use, site development conditions or signs, or change in operations shall only be permitted upon review and approval by the Planning Commission according to the procedures for conditional uses set forth in Chapter 1131.

1139.19 COMPLETION OF CONSTRUCTION WITH ZONING CERTIFICATE.

Nothing in this Development Code shall prohibit the completion of the construction and use of buildings for which a Zoning Certificate or Building Permit has been issued prior to the effective date of this Development Code, or amendments thereto, provided construction shall start within one (1) year of the issuance of the Zoning Certificate or Building Permit is carried on diligently and without interruption and the entire building shall be completed within one (1) year after the start of construction. 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.
