

FIRST READING: 1.9.23
SECOND READING: 1.23.23
THIRD READING: 2.13.23

ORDINANCE NO. 3-23

BY: JEANNE GALLAGHER

AN ORDINANCE AMENDING ROCKY RIVER CODIFIED ORDINANCES SECTION 1181.13 ENTITLED "LIGHTING REGULATIONS", AS FURTHER DESCRIBED IN THE ATTACHED EXHIBIT "A"

WHEREAS: the Administration of the City of Rocky River, has deemed it necessary to amend Section 1181.13 entitled "Lighting Regulations" of our Codified Ordinances; and

WHEREAS: it is the desire of the Administration and Council of the City of Rocky River that Section 1181.13 entitled "Lighting Regulations" of the Codified Ordinances of the City of Rocky River be amended, as further described in the attached Exhibit "A"; and

WHEREAS: this Ordinance was recommended by the Planning Commission of the City of Rocky River for approval on January 19, 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, STATE OF OHIO:

SECTION 1. That Section 1181.13 of the Codified Ordinances of the City of Rocky River entitled "Lighting Regulations", be amended as further described in the attached Exhibit "A".

SECTION 2. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 2.13.23, 2023


JAMES W. MORAN
President of Council

PRESENTED

TO MAYOR: 2.13.23, 2023 APPROVED: 2.13.23, 2023

ATTEST:


SUSAN G. PEASE
Clerk of Council


PAMELA E. BOBST
Mayor

City of Rocky River } ss
County of Cuyahoga }

THE UNDERSIGNED CLERK OF THE COUNCIL OF THE CITY OF ROCKY RIVER, OHIO DOES HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 3-23 ADOPTED BY THE COUNCIL OF SAID CITY ON THE 13th DAY OF February, 2023 THAT THE PUBLICATION OF SUCH ORDINANCE HAS BEEN MADE AND CERTIFIED OF RECORD ACCORDING TO LAW; THAT NO PROCEEDINGS LOOKING TO A REFERENDUM UPON SUCH ORDINANCE HAVE BEEN TAKEN; THAT SUCH ORDINANCE AND THE CERTIFICATE OF PUBLICATION THEREOF, ARE OF RECORD IN ORDINANCE RECORD NO. 3-23

31UOrdinances(Cover Ordinance for Section: 1181.13

I, the undersigned clerk of council of the city of Rocky River, State of Ohio, do hereby certify that publication of the foregoing ordinance was duly made by posting a true copy thereof in the lobby of the Rocky River City Hall, in accordance with the charter of Rocky River, commencing on the 13th day of February, 2023.


Clerk of Council of the City of Rocky River, Ohio

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 13th DAY OF February, 2023.


CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

CHAPTER 1181
General Use Regulations

1181.01 Supplementary height regulations.

1181.03 Family day care home.

1181.05 Lot regulations.

1181.07 Requirements for owners associations.

1181.09 Performance standards.

1181.11 Visibility at intersections.

1181.13 Lighting regulations.

1181.15 Home occupation regulations.

1181.17 Temporary structures in residential districts.

1181.19 Solar regulations.

1181.01 SUPPLEMENTARY HEIGHT REGULATIONS.

The provisions of the Development Code governing the height of buildings in all districts shall not apply to the following structures and equipment which occupy not more than thirty-five percent (35%) of the roof area of a building, unless a greater percentage of occupation therefor be permitted by the Board of Zoning and Building Appeals:

Chimneys, elevators, bulkheads, skylights, ventilators, air conditioning and other temperature control equipment and other mechanical equipment relating to the operation or construction of the building itself, cooling or water towers, wind turbines, radio or television antennae, theater scenery lofts, domes, stacks, towers or spires so long as such structures and equipment shall not, in whole or in part, be intended for designed for or to permit human occupancy or regular human use or for storage.

1181.03 FAMILY DAY CARE HOME.

This Development Code recognizes that the availability of safe and affordable, good-quality child day care is important to the well being of parents and children. Furthermore, the operation of family day care home shall be in a manner that preserves the residential character of neighborhoods. According to ORC 5104.054, any type B family day-care home, whether certified or not certified by the county director of human services, shall be

considered to be a residential use of property for purposes of municipal, county, and City zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. A type "B" family day-care home is a permanent residence of the provider where childcare is provided for 1 to 6 children and where no more than three children are under two years of age. For the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the day-care home shall be counted. Type "B" family day-care homes are a permitted accessory use in residential districts, and do not require a zoning certificate or a certificate of zoning compliance.

1181.05 LOT REGULATIONS.

- (a) Required Setbacks to be Maintained. The required setbacks surrounding an existing principal building, which have been counted or calculated as part of a side setback, rear setback, front setback, setback adjacent to street right-of-way, or other open space required by this Code shall not, by reason of change in ownership or otherwise, be counted or calculated to satisfy the setback or other open space requirement for any other principal building.
- (b) When one or more buildings, or parts thereof, are constructed or enlarged so as to cross one or more lot lines in the same ownership, all such lots shall be replatted into one lot provided all other zoning and subdivision regulations are met.
- (c) Required Lot Area to be Maintained. A parcel of land may be subdivided into two or more parcels, provided all lots resulting from such division shall conform to all the lot area and width regulations of the district in which it is located. A lot of record that conformed to the provisions of this Code or any amendments thereto shall not be reduced in any manner that would make it non-conforming.

1181.07 REQUIREMENTS FOR OWNERS ASSOCIATIONS.

As part of a Cluster Residential Development or other development where a homeowners association, community association, condominium association or similar legal entity/agency shall be created to be responsible for the maintenance and control of common areas, including the required open space, open space easements, private streets, facilities, common drives, etc. The City's Law Director shall determine that, based on documents submitted with the development plan, the association's or agency's bylaws or code of regulations specify the following requirements:

- (a) Membership in the Association shall be mandatory for all purchasers and/or owners of lots in the development or units in a condominium;
- (b) The Association shall be responsible for maintenance, control, and insurance of open space and all common areas, including any applicable easements;

- (c) The Association shall have the power to impose assessments on members for the maintenance, control and insurance of open space and common areas, and have the power to place liens against individual properties for failure to pay assessments;
- (d) The conditions and timing of transfer of control from the developer to the unit or lot owners shall be specified and provisions that require all elements on the approved detailed plan, such as but not limited to the landscaping and utilities, to be completed prior to transfer or a performance guarantee has been provided to and approved by the Law Director and the City Engineer;
- (e) The Association shall not authorize its dissolution or the sale, transfer or other disposal of any common area, including required open space, without (i) an affirmative vote of seventy-five (75) percent of its members, (ii) having established a successor entity to take over said property pursuant to the City's Development Code; and (iii) the approval of the City Council.
- (f) The Association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to enter to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety, and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the City shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, and vacant building lots.
- (g) A certified copy of all covenants and restrictions, as filed with the Cuyahoga County Recorder's Office, shall be submitted to the Zoning Administrator.

1181.09 PERFORMANCE STANDARDS.

No land, building, or structure in any zoning district shall be used or occupied in any manner to create a dangerous or objectionable condition, substance or element, in such a manner or in such amount to adversely affect the adjoining premises or surrounding area. All uses shall comply with the following performance standards:

- (a) Americans with Disabilities Act. All uses shall comply with all applicable requirements of the Americans with Disabilities Act, and all other applicable federal, state, and county regulations.
- (b) Lighting and Glare. All exterior lighting and conditions that generate glare shall comply with the requirements of Section 1181.13 , Lighting Regulations.
- (c) Heat. No use shall generate heat that is perceptible without the aid of instruments at any point beyond the lot occupied by the use.
- (d) Noise. Chapter 558 of the City's Codified Ordinances.
- (e) Vibration. Vibrations, which are perceptible without the aid of instruments, shall not be permitted beyond the lot occupied by the use generating such vibration.

(f) Odors. No use shall emit malodorous gas or matter that is discernible on any adjoining lot or property.

(g) Air Pollution.

(1) No use shall cause the emission of dust, dirt, fly ash, fumes, vapors, or gases which can cause any damage to human health, animals, vegetation, and property, or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission.

(2) Dust and other types of air pollution borne by the wind from sources such as parking areas, storage areas or yards shall be kept to a minimum by appropriate landscaping, paving, oiling, or other acceptable treatment.

(h) **Fire Hazards.** Flammable or explosive materials shall only be permitted in structures having incombustible exterior walls after approval by the Fire Marshall.

(i) **Storage Handling.** Storage handling and use of flammable liquids shall comply with regulations as set forth in Bulletin No. 30-L of the National Fire Protective Association. Storage of other materials in yards or structures shall comply with other fire protective codes of the City of Rocky River and all parts shall be accessible to firefighting equipment.

(j) **Solid Waste.** Solid waste, including empty packing crates and other excess materials, shall not be allowed to accumulate on a lot and shall be disposed of on a regular basis and enclosed within a wall or fence, as required by this Code.

(k) Liquid Waste. If liquid wastes are disposed of in containers, they shall be appropriate containers, and the wastes shall be removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir, stream, or other open body of water or into a storm or sanitary sewer except as allowed by other codes of the City of Rocky River, County, State or similar jurisdictional authority.

(1) Noxious, toxic or corrosive fumes. Noxious, toxic or corrosive fumes or gases shall not be emitted that shall be injurious to the property, vegetation or health of the people residing in any adjacent district.

(m) Radioactive or Electrical Disturbances. Radioactive emissions or electrical discharges shall be confined to the use and lot from which they originate and shall not occur across any lot line.

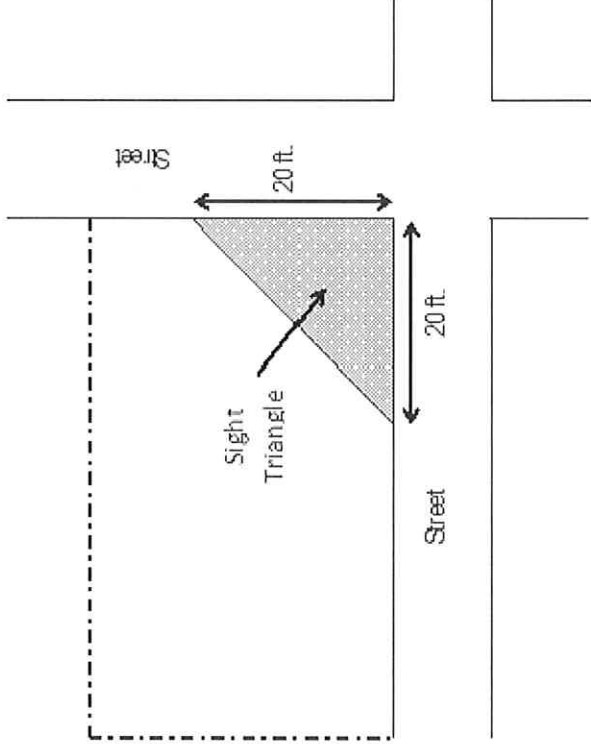
(n) Infectious and Medical Waste Materials. The storage, incineration, or disposal of infectious or medical waste materials in such a manner or in such quantities as to produce a public nuisance or a hazard to the public health and welfare of the community shall not be permitted.

1181.11 VISIBILITY AT INTERSECTIONS.

Sight Triangles at the Intersection of Two Streets. In any Residential District, on any corner lot, no fence, structure or planting shall be erected or maintained higher than 2.5 feet and eight (8) feet, above the rights-of-way lines, within a clear sight triangle formed by the right-of-way lines of two intersecting streets, and a line drawn between two points, each measuring twenty (20) feet from the intersection of the right-of-way lines. See Figure 1 below.

Figure 1

Visibility at Intersection of Public Streets



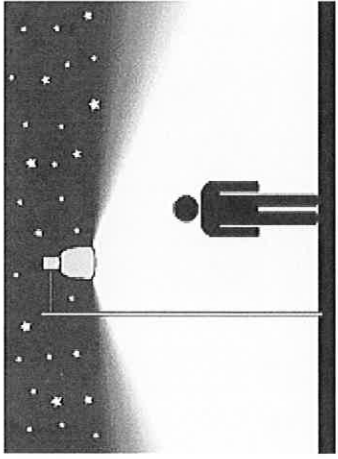
1181.13 LIGHTING REGULATIONS.

The purpose of this Section is to control the installation of exterior lighting fixtures to prevent light pollution in the forms of light trespass and glare and to preserve, protect and enhance the character of the City and the lawful nighttime use and enjoyment of property located within the City. Appropriate site lighting, including lights for signs and buildings shall be arranged so as to provide safety, utility and security; **and to** control light trespass and glare on adjacent properties and public roadways.

(a) Definitions. Terms related to the required exterior lighting standards contained in this Section and this Code shall have the following meanings:

- (1) Footcandle. A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

(2) Full-shielded or full cut-off type fixture. An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest light-emitting part of the fixture.



(3) Glare. Direct light that causes annoyance, discomfort or loss in visual performance and visibility.

(4) Light trespass. Light in sufficient quantity that crosses over property boundaries **in excess of one (1) foot candle**, and produces **producing** a negative response in persons owning or using the violated space.

(5) Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

(b) Exterior Lighting Plan. A lighting plan is required for all uses that are required to submit a development plan and shall be approved according to the procedures set forth in Chapter 1127, Development Plan Review Procedures. All existing uses on which exterior lighting is installed or changed shall conform to these standards. The lighting plan shall demonstrate compliance with the exterior lighting standards of this sub-section, and shall include the following items:

- (1) A site plan showing location of all exterior light fixtures, controllers, and transformers.
- (2) Property boundaries, building location(s), parking lot layout, pedestrian paths, adjacent rights-of-way, north arrow and scale.
- (3) Specifications and drawings or photographs for all exterior light fixture types, poles, conduit and appurtenant construction.
- (4) Lamp wattage of all proposed luminaires.
- (5) Cut sheets for all proposed exterior light fixtures and poles.

(6) Any other information and data reasonably necessary to evaluate the required lighting plan.

(c) General Requirements.

(1) All lighting shall be controlled in such a way as to not shine up into the sky or on any neighboring properties *in excess of one (1) foot candle*. Examples of ways in which this shall be accomplished *when a light trespass of one (1) foot candle or greater exists*, are the use of fully shielded cut-off fixtures, directing light fixtures downward rather than upward, or shielding the light in such a way that the light-emitting portion of the fixture cannot be seen at a reasonable distance.

(2) Where used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots, only fully shielded cut-off style light fixtures shall be utilized.

(3) All forms of flashing, rotating, moving, or digital lights shall be prohibited.

(4) The illumination level at the property line of a parcel adjacent to a residence shall not exceed one-foot candle power.

(5) In addition to the requirements to forth in this Section, outdoor light fixtures shall be installed in conformity with all other applicable provisions of the codified ordinances of the City of Rocky River, Ohio.

(6) Where used to illuminate signs or for decorative effects or recreational facilities, such as for building, landscape, or recreational field illumination, all outdoor light fixtures shall be shielded and focused to minimize shining into the sky and upon neighboring properties.

(7) All outdoor light fixtures installed and maintained upon private property within all zoning districts shall be turned off between 11:00 PM and sunrise, EXCEPT, *subject to the candle requirements of subsection (C) (1) above*, when used for security purposes or to illuminate walkways and roadways.

(8) All illuminated signs for commercial and/or industrial purposes shall be turned off between 11:00 PM and sunrise, EXCEPT, *subject to the candle requirements of subsection (C) (1) above*, that signs may be illuminated while the business facility is open to the public.

1181.15 HOME OCCUPATION REGULATIONS.

(a) Purpose: The purpose of this Section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the non-residential use of a residential dwelling unit so that the non-residential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit. No

home occupation shall be permitted or carried on unless such home occupation complies with all of the following regulations:

- (1) No one other than members of the family residing on the premises shall be engaged in such home occupation;
- (2) The home occupation shall be conducted wholly within the principal building and shall be incidental and subordinate to the use of the dwelling for residential purposes. Not more than fifteen percent (15%) of the net floor area of the living area of any dwelling shall be used in the conduct of a home occupation;
- (3) There shall be no change in the outside appearance of the building or premises, or other visible exterior evidence of the conduct of such home occupation;
- (4) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in single-family detached dwelling, or outside the dwelling unit if conducted in other than a single-family detached dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;
- (5) The home occupation shall not attract more than two (2) automobiles to the premises at any time;
- (6) The residential character of the dwelling exterior shall not be changed, except that a small, non-illuminated sign of maximum size of two (2) square feet may be permitted;
- (7) The home occupation, including the storage of equipment, supplies or any apparatus related to the use shall be conducted entirely within the dwelling unit and no use of any accessory building or yard space shall be permitted except that storage of equipment and supplies may be conducted in a garage to the extent that at all times the number of vehicles for which the garage was designed to accommodate shall be able to be parked in said garage;
- (8) No home occupation shall require the daily services of a commercial freight carrier, nor shall the use produce traffic in greater frequency than normally found in the surrounding residential area. This sub-section shall not prohibit those delivery services normally and customarily associated with residential uses; and,
- (9) No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail, telephone, or electronically and does not involve the receipt, delivery, sale or storage of merchandise on or from the premises.
 - (b) When any home occupation results in an undesirable condition interfering with the general welfare of the surrounding residential area, such home occupation may be terminated by the Zoning Administrator. An undesirable condition may be identified as abnormal traffic, objectionable noise or any other condition not conducive to a residential neighborhood situation.

1181.17 TEMPORARY STRUCTURES IN RESIDENTIAL DISTRICTS.

Temporary structures in residential districts shall comply with the following:

- (a) Temporary structures for construction operations, including field offices, storage of materials, and work shops for assembly of components, may be permitted on undeveloped lots, or for use during remodeling or expansion of a residential dwelling, if such structures are found necessary for the construction operations for which a building permit has been issued, provided such temporary structures shall be located at least thirty (30) feet from the nearest occupied residential dwelling and shall be removed within ten (10) days after the completion or discontinuance of the work.
- (b) One portable home storage unit which is designed for the temporary storage of household goods, furnishings, and building materials may be placed on a paved off-street surface on private property at least fifteen (15) feet from the right-of-way within any residential district for a period not to exceed fifteen (15) days. An application for a permit shall be filed with the Zoning Administrator prior to placement of any portable home storage unit. A permit fee shall be charged pursuant to the City's adopted Fee Schedule or Ordinance. One fifteen (15) day extension, with an additional permit fee, may be granted by the Zoning Administrator upon a showing of hardship by the applicant. No portable home storage unit use will be permitted beyond two (2) separate times per calendar year, at least six (6) months apart.

1181.19 SOLAR REGULATIONS.

- (a) Solar equipment shall only be an accessory use in residential and non-residential zoning districts. Solar panels are a use permitted by right on the roof of any residential building when the panel or panels, at any point, are not less than three (3) feet from the roof line and the total area of the panels does not comprise more than seventy-five (75%) percent of a single roof surface. For the purposes of this section the single roof surface shall include the area of appurtenant structures or other elements, such as dormers. In residential districts, only solar panels shall be permitted on roofs and other solar equipment associated with rooftop solar panels shall not be located in required setbacks or in the front yard.
- (b) Solar panels and solar equipment shall be Conditional Uses and subject to the provisions for accessory uses and structures contained in Section 1153.15 of this Code, and further subject to the review procedures for Conditional Uses contained in Code Chapter 1131, in the following situations:
 - (1) For all non-residential buildings for both roof and free-standing ground solar structures and panels;
 - (2) For residential buildings when the size of the panel or panels, are greater than the requisite roof percentage; the panel is installed so it extends closer to the roof line than the

