

**ORDINANCE NO. 7 , 2022**

**AN ORDINANCE CORRECTING ORDINANCE NO. 9, 2018 – AN ORDINANCE  
AMENDING THE LAND USAGE CODE TO ENACT NEW REGULATIONS  
FOR THE OLD MONTGOMERY GATEWAY DISTRICT**

**WHEREAS**, on July 11, 2018, City Council enacted Ordinance 9, 2018, *An Ordinance Amending The Land Usage Code To Enact New Regulations For The Old Montgomery Gateway District*; and

**WHEREAS**, to be attached to the Ordinance were various text amendments within related Sections of the Land Usage Code which were impacted by the changes to the Old Montgomery Gateway District; and

**WHEREAS**, after a public hearing April 4, 2018 when Council unanimously accepted the recommendations of the Planning Commission, and after the Planning Commission completed a comprehensive review of the proposed changes at multiple meetings, this Ordinance was approved after three separate readings; and

**WHEREAS**, part of this detailed review by the Planning Commission included changes to the text specifically in Chapter 151.15 – *Old Montgomery Gateway District Regulations* – which changes referenced other sections within the Land Usage Code, related to the Old Montgomery Gateway District which were codified in such Chapters as Chapter 151.12 – *Business District Regulations* and Chapter 151.32 – *Off-Street Parking and Loading Regulations*; and

**WHEREAS**, Council's detailed review at the April 4, 2018 public hearing included reports and recommendations by the Community Development Department and the Minutes from the Planning Commission meetings at which the multiple Section

changes were discussed and approved; and

**WHEREAS**, in the final Codification of Ordinance 9, 2018, the additional pages with changes to Chapters 151.12 and 151.32 were omitted; and

**WHEREAS**, to correct such *scrivener's* error, Council does desire to modify Ordinance 9, 2018 to properly attach to the Code those Sections which were omitted as an attachment in the print copy and to clarify that Council does ratify and reaffirm the recommendation from the Planning Commission, which recommendation was accepted by Council at its public hearing and were proposed to be enacted with Ordinance 9, 2018.

**NOW THEREFORE**, Council having previously considered such changes at a public hearing April 4, 2018 for which notice was properly given, and to correct this *scrivener's* error so that the Codified Ordinances correctly reflect the changes to Chapter 151.1500, **IT IS HEREBY ORDAINED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The attached reformation of Chapter 151.12 – *Business District Regulations*, and Chapter 151.32 – *Off-Street Parking and Loading Regulations*, as recommended and accepted by Council as part of the update to the Old Montgomery Gateway District, are hereby adopted in their entirety as if fully rewritten herein and shall be made a part of the Codified Ordinances of the City of Montgomery to properly correct this *scrivener's* effort.

**SECTION 2.** Council does hereby ratify and reaffirm the changes to the Old Montgomery Gateway District as detailed in Ordinance 9, 2018, and as detailed in the recommendation from the Planning Commission accepted by City Council.

**SECTION 4.** All sections, subsections, parts and provisions of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be unconstitutional, void or ineffective for any reason shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

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

PASSED: October 5, 2022

ATTEST: Connie M. Gaylor  
Connie M. Gaylor, Clerk of Council

Craig D. Margolis  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon  
Terrence M. Donnellon, Law Director

## CHAPTER 151.12

### Business District Regulations

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

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#### § 151.1201 PURPOSE.

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

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

accommodate all types of offices and limited business service activities;

- (e) To provide Limited Business Districts (L-B) to accommodate small-scale limited retail, office uses and uses confined primarily to indoor activities with residentially sensitive scale and character.
- (f) To provide General Business Districts (G-B) with parcels of sufficient size, allowing for a broader range of commercial uses and services than those specified in the L-B District, including more intensive automotive and outdoor uses.
- (g) To provide an Old Montgomery District (OM) that preserves the historic fabric of the downtown area by maintaining retail and office uses along the primary street frontages, reducing the parking requirements and allowing for buildings to be located closer to the street. To further achieve these objectives, the District has been divided into the “core area” and “outer area”. In the core area, development standards are established to maintain the traditional character and arrangement of lots along the Montgomery



Road corridor; in the outer area, slightly more generous standards have been established for adjacent lots surrounding the corridor where existing lot arrangements are more flexible.

(h) To provide an Old Montgomery Gateway District (OMG) to accommodate retail, office and mixed use developments that strengthen the current historic district and create a cohesive development pattern and density in the OMG and OM Districts.

#### **§ 151.1202 USE REGULATIONS.**

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

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

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

(d) Use Not Listed in Schedule. Although a use may be indicated as a permitted principal, conditional or accessory use in a particular district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Zoning Code applicable to the specific use and parcel in question. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Zoning Map as provided in Chapter 150.22 or upon a finding that a use is substantially similar as provided in § 150.1611.

#### **§151.1203 SCHEDULE OF PERMITTED USES.**

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

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

1. Taverns, bars, cocktail lounges				P	P	P
2. Outdoor dining			P	P	P	P
	Office District "O"	Office Commercial District "OC"	Limited Business District "L-B"	General Business District "G-B"	Old Montgomery Gateway District "OMG"	Old Montgomery District "OM"
<b>G. Services</b>						
1. Animal boarding facility			C	C		
2. Animal grooming facility (excluding open kennels or open runs)			P	P		P
3. Animal hospital or clinic; grooming facility (excluding open kennels or open runs)			P	P		P
4. Barber and beauty shops		P	P	P	P	P
5. Dry cleaning/laundry pickup station			P	P	P	P
6. Funeral home, mortuaries	P	P		P		
7. Motels, hotels				P	P	P <sup>(a)</sup>
8. Studios for instruction		P	P	P	P	P
9. Shoe repair, tailoring		P	P	P	P	P
10. Construction and Mechanical Services				P		
<b>H. Automotive/Transportation</b>						
1. Parking as principal use (lot or garage)				P	P	C
2. Automobile, truck, trailer sales and rental				C		
3. Car wash				C		
4. Gasoline station				C		

5. Vehicle maintenance and repair facility				C		
<b>I. Entertainment/Recreation</b>						
1. Indoor recreation such as bowling lanes, tennis, fitness, etc.				P	P	P
2. Theaters				P	P	P
3. Public and private parks	P	P	P	P	P	P
4. Clubs, lodges or other assembly halls	P	P		P	P	P <sup>(a)</sup>
5. Outdoor recreation including miniature golf courses, swimming pools and other similar uses				C		

	Office District “O”	Office Commercial District “OC”	Limited Business District “L-B”	General Business District “G-B”	Old Montgomery Gateway District “OMG”	Old Montgomery District “OM”
<b>J. Trade Businesses/Services</b>						
Repair and service shop for such items as bicycles; typewriters; keys and locks; electrical, radio and television appliances in completely enclosed buildings			P	P	P	P
<b>K. Other</b>						
1. Outdoor displays			P <sup>(f)</sup>	P <sup>(f)</sup>	P <sup>(f)</sup>	P <sup>(f)</sup>
2. Wireless Telecommunications Facilities	See Chapter 151.36					
<b>L. Accessory</b>						

	Office District “O”	Office Commercial District “OC”	Limited Business District “L-B”	General Business District “G-B”	Old Montgomery Gateway District “OMG”	Old Montgomery District “OM”
1. Restaurants and pharmacies in connection with a principal use when conducted and entered only from within the principal building	A	A	A	A	A	
2. Off-street parking and loading areas	A	A	A	A	A	A
3. Fences, walls, landscape features	A	A	A	A	A	A
4. Trash receptacles	A	A	A	A	A	A
5. Signs	A	A	A	A	A	A
6. Outdoor recreation, including basketball courts, swimming pools and other similar uses in association with an approved multi-family development or hotel/motel	A	A			A	A
		<p>Notes to §151.1203:</p> <ul style="list-style-type: none"> <li>(a) Permitted in the “outer area” only. See City Zoning Map for boundaries of outer area.</li> <li>(b) Uses above the first floor.</li> <li>(c) Uses on the first floor.</li> <li>(d) Except as permitted by right per §151.1215</li> <li>(e) Only as part of a Mixed Use Development</li> <li>(f) Permitted subject to supplemental regulations of Section 151.1209</li> </ul> <p>P = Use Permitted by Right                      C = Conditional Use                      A = Accessory Use</p>				

**§151.1204 LOT REQUIREMENTS.**

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

**Schedule 151.1204(a)  
LOT REQUIREMENTS**

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

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

- (1) The length of lot frontage utilized in the calculation shall not include the width of access drives.
- (2) When the length of the building frontage equals less than 70 percent of the linear length of the lot frontage, a wall shall be required as specified below so that the length of the building and wall, in combination, equal a minimum of 70 percent of the linear length of such lot frontage.
  - A. Walls shall be constructed of solid masonry and shall have a height not less than 3 feet, not including ornamentation or other features.
  - B. Walls shall be located no farther from the public right-of-way than the building setback line established in Subsection 151.1205(b).

**§ 151.1205 BUILDING SETBACK REQUIREMENTS.**

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

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

	Office District “O”	Office Commercial District “OC”	Limited Retail “L-B”	General Business “G-B”	Old Montgomery Gateway District “OMG” (c)	Old Montgomery District “OM” (a)	
						Core Area	Outer Area
(1) Front Yard	30 ft.	30 ft.	30 ft.	30 ft.	0 ft <sup>(c)</sup>	0	10 ft.
(2) Side Yard	10 ft. <sup>(b)</sup>	10 ft. <sup>(b)</sup>	10 ft. <sup>(b)</sup>	10 ft. <sup>(b)</sup>	5 ft <sup>(c)</sup>	0	5 ft.
(3) Rear Yard	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	0	15 ft.
(4) Side/Rear Yards When Adjoining a Residential District or Use	45 ft.	45 ft.	45 ft.	45 ft.	15 ft. side 45 ft. rear for commercial structures 10 ft. rear <sup>(b)</sup> for residential structures	15 ft.	15 ft.



		<p><u>Notes to Schedule 151.1205:</u></p> <p>(a) See City Zoning Map for boundaries of core area vs. outer area.</p> <p>(b) Or ½ of the building height, whichever is greater.</p> <p>(c) See also §151.1508</p>
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(b) Front Yards of Built-Up Blocks. In an O, OC, L-B, or G-B District, whenever a vacant lot is proposed for development and there are existing buildings (other than those of an accessory use) on adjacent lots that do not meet the minimum setback requirements, the minimum front setback for the vacant lot shall be the mean distance of setback of all buildings within 200 feet of the proposed structure along the block front. However, in no instance shall a building be placed nearer to the front lot line than 15 feet.

**§ 151.1206 HEIGHT REGULATIONS.**

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

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

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

**§ 151.1207 OFF-STREET PARKING SETBACK REQUIREMENTS.**

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

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

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

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

	Office District “O”	Office Commercial District “OC”	Limited Retail “L-B”	General Business “G-B”	Old Montgomery		
					“OM” (a)		“OMG”
					Core Area	Outer Area	Gateway
(1) Setback from street right-of-way	50 ft. (b)(e)	50 ft. (b)(e)	20 ft. (b)	20 ft. (b)	(c)	12 ft.	12 ft. (b)
(2) Setback from side or rear lot line							

A. When the lot line adjoins a nonresidential district	10 ft.	10 ft.	10 ft.	5 ft.	Side - (d) Rear - 0	3 ft.	5 ft.
B. When the lot line adjoins a residential district or use.	20 ft.	20 ft.	20 ft.	20 ft.	Side - (d) Rear - 5 ft.	10 ft.	10 ft.

Notes to Schedule 151.1207:

- (a) See City Zoning Map for boundaries of core area vs. outer area.
- (b) When the front yard abuts or faces a residential district, no parking may be located in the front yard.
- (c) Not permitted in the front yard. On corner lots, parking may be permitted in the front yard abutting any street other than Montgomery Road, with a minimum 5ft. peripheral landscape strip, provided that no parking is located between the building line and the front lot line along Montgomery Road.
- (d) Not permitted in side yard.
- (e) The setback for parking when the principal building is set closer than 50' from the right of way shall be equal to the setback of the building.

**§ 151.1208 REGULATIONS FOR PERMANENT OUTDOOR DISPLAY AND SALES.**

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

- (a) Areas devoted to outdoor display shall comply with all parking lot setbacks and yard regulations for the district in which they are located, as set forth in this chapter.
- (b) The outdoor display area shall not be located in areas intended for traffic circulation or pedestrian access as identified on the site plan.
- (c) The area of the lot devoted to outdoor display shall not exceed 20 percent of the ground floor area of the principal building. This restriction does not apply to auto dealerships or plant nurseries.
- (d) One information sign per product(s) identifying the product(s) on permanent

outdoor display shall be permitted; however, such signs shall not exceed one (1) sq. ft in size. The sign message is limited to identifying what the product is and the sale price. The sign must be located on or next to the product it identifies and oriented for pedestrians on the site. As an alternative, a business may display a single sign up to six (6) sq. ft to list all of the products for sale when there are four or more different types of products on display. The sign must be oriented toward customers at the display and not off site. Permanent outdoor display signs may be either fixed message or hand-decorated, must meet the requirements of Section 151.3016, and can not be illuminated.

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

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

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

- (1) Such sales associated with a commercial/retail use which do not exceed three (3) consecutive days and which are held no more frequently than four (4) times per calendar year may be approved by the Zoning Administrator upon application. All other applications for approval require review and approval by the Planning Commission.
  - (2) All applications for outdoor sales must demonstrate that the principal use on the lot will continue to meet all parking requirements during the periods for such sales, there will be no impact upon interior circulation and there will be no significant increase in lighting and noise.
  - (3) Such outdoor display areas must maintain setbacks equivalent to setbacks for the parking areas of that district.
  - (4) The area of the lot devoted to outdoor display shall not exceed twenty percent (20%) of the ground floor area of the principal building.
  - (5) No additional signage is permitted for such sale and/or display with the exception that temporary signage may be erected consistent with Section 151.3015(e), Special Event Signs.
- (b) Community Markets are defined as the temporary outdoor sale and display of goods operated by a not-for-profit or

service organization supporting the Montgomery community. Community Markets are such sales or displays operated by such organization which exceed more than three (3) consecutive days or which are held more frequently than four (4) times per year.

- (1) Such Community Markets may be located in a residential district so long as they are sited on a conditionally permitted use site, and may be located in Business Districts consistent with these regulations.
- (2) The location and operation of such Community Markets must be approved in advance by the Planning Commission and application approval shall demonstrate that there is adequate parking available to accommodate the event and the approved use of the site. Agreements with adjoining property owners for additional parking may be permitted for limited periods of time.
- (3) The area of the lot devoted to the Community Market shall not exceed twenty percent (20%) of the ground floor area of the principal building, or if such Community Market is operated on a vacant lot, no more than fifty percent (50%) of the lot may be used for the sale or display of merchandise.
- (4) The application shall set forth the hours of operation and provide sufficient additional detail concerning required licensing, location and installation of utilities, property maintenance, on-site signage, traffic circulation and safety, and such other information as is required by the Zoning Administrator to determine the effect and impact of the proposed market on the

- community and surrounding properties.
- (5) Signage shall be permitted for a Community Market consistent with Section 151.3015(e), Special Event Signs.
- (c) Community Events such as festivals, concerts, arts and craft shows, and similar events which are operated by a public entity or not-for-profit organization supporting the Montgomery community, are events which do not exceed three (3) consecutive days nor occur more than four (4) times per year. Such Community Events may be approved by the Zoning Administrator on appropriate application. The area of the lot devoted to the Community Event is not limited provided there is adequate parking available to accommodate the event and the approved use of the site. Agreements of the adjoining property owners for additional parking may be permitted for limited periods of time. The Zoning Administrator may require such additional information in an application as is necessary to determine what impact, if any, the event will have on surround property owners and the community including information concerning the duration of the event, hours of operation, licensing security and property maintenance, parking and traffic circulation, access for emergency vehicles, noise, light and signage. Off-site signage for a Community Event is permitted consistent with Section 151.3015

#### **§ 151.1210 OUTDOOR DINING.**

Outdoor dining shall comply with the following regulations:

- (a) Outdoor dining shall only be permitted as an accessory use to an indoor restaurant.
- (b) Outdoor dining areas must meet the setback requirements for principal buildings. Outdoor dining areas are permitted to be located upon a public

sidewalk or within the public right-of-way in the Old Montgomery District and the Old Montgomery Gateway District, in accordance with subsection (i) below.

- (c) The number of seats permitted outdoors shall be no greater than 30 percent of the number of seats inside the restaurant.
- (d) The outdoor dining area shall be limited to seating only and shall not include table bussing facilities or cooking facilities.
- (e) Permanently installed sound systems that are used for low level background music and as part of a television system may be permitted by the Planning Commission when the dining area is located at least 100' from a single family residential district. Any sound system to provide entertainment on a temporary basis must be portable and must be removed at the end of each business day. All outdoor dining activities, including any entertainment, are subject to the City's noise ordinance and related limitations thereto.
- (f) Outdoor heaters in the dining area may be permitted only pursuant to appropriate health and fire codes enforced in the City of Montgomery.
- (g) No separate advertising is permitted for the outdoor dining area, including any advertisement for the business or any supplier to the business on any umbrellas, awning or other structure attending to the outdoor dining facilities.
- (h) The property owner shall be responsible to keep the outdoor dining area free and clear of all garbage, trash and other debris and shall provide an appropriate trash receptacle within the outdoor dining area for the deposit of refuse and litter. Such trash receptacle shall be emptied on a regular basis and shall be moved indoors at the end of each business day.
- (i) Any outdoor dining located upon a public sidewalk or within the public right-

of-way in the OM or OMG District, requires a separate permit from the City Manager which must be accompanied by sufficient surety or insurance to protect and indemnify the City from any third party claims.

#### **§ 151.1211 ACCESSORY USE REGULATIONS.**

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

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

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

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

(d) Temporary Storage Containers. Temporary Storage Containers are considered to be an accessory use within all Business Districts and shall be regulated consistent with the same regulatory standards set forth within Section 151.1009 of the Code.

#### **§ 151.1212 LANDSCAPING AND SCREENING REQUIREMENTS.**

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

#### **§ 151.1213 PERFORMANCE STANDARDS.**

All uses shall comply with the following performance standards.

(a) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional or accessory use shall either be

disposed of, stored in buildings, or completely enclosed in containers. Such building, container or dumpster shall be located in a side or rear yard and in 'O' and 'OC' districts shall comply with the minimum parking setbacks established in Schedule 151.1207. Additionally, such building, container, or dumpster must also maintain a minimum 20' setback from any property line which abuts a residential use. All enclosures shall be screened in accordance with provisions set forth in Chapter 151.34.

(b) Lighting. All lighting shall be so arranged as to direct light away from adjacent parcels and streets and shall not be of excessive brightness or cause a glare hazardous to motorists or reasonably objectionable to adjacent property owners. See also 151.3212(c). Exterior lighting should be limited to what is needed to illuminate parking, pedestrian, and other activity areas for safety and security. Additional lighting mounted on a building may be used to illuminate points of ingress and egress as required by building codes. Planning Commission, through the site plan review process, may also permit limited exterior lighting on buildings to highlight architectural features. Lighting under canopies and awnings is permitted when it covers a sidewalk or entrance. However, the awning or canopy must be opaque and the intent of the lighting is not to illuminate the entire canopy or awning. These standards are in addition to the requirements of §151.3212(c) for parking areas.

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

#### **§151.1214 SUPPLEMENTAL REGULATIONS FOR DRIVE-THROUGH FACILITIES AND**

**FREESTANDING AUTOMATED TELLER MACHINES.**

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

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

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

- (1) No separate signage is permitted for an ATM other than directional signs located on the lot of the principal use. Additionally, there may be advertising on the ATM to identify the ATM brand, but limited to no more than two (2) square feet on each of two (2) fronts.
- (2) Such ATM facilities shall be located in an area least disruptive to pedestrian or vehicular traffic.
- (3) If an ATM is accessible as a drive-up machine, then there shall be an identifiable and dedicated traffic lane located on the lot of the principal use with sufficient room to allow one (1) motor vehicle to access each machine and such additional space within the identified and dedicated traffic lane to allow two (2) waiting motor vehicles for each machine to stand on

the lot without interfering with other vehicular traffic.

- (4) Any separate lighting for the ATM must comply with § 151.1213 (b) and shall be the minimum necessary to provide adequate security for the use of the ATM.
- (5) No external loud speaker system is permitted with such ATM.

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

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

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

- (1) The maximum gross square footage shall not exceed 5,000 square feet.
- (2) The sign regulations for the Office District will apply to all uses regardless of whether they are retail or service uses.
- (3) Temporary and Permanent Outdoor displays are prohibited.
- (4) Parking will be required per the standards in Schedule 151.3204.

(b) General Retail uses shall comply with the following:

- (1) The maximum gross square footage shall not exceed 5,000 sq. ft. or 20% of the total square footage of the principle and accessory use, whichever is less.
- (2) There will be no additional exterior signage.
- (3) Access to the accessory use will be through one shared entrance with the principle use.



- (4) The hours of operation of the accessory use will coincide with the hours of the permitted use.

**§ 151.1216 SUPPLEMENTAL REGULATIONS FOR THE BETHESDA NORTH HOSPITAL PROPERTY.**

(a) History. The Bethesda North Hospital Property (hereinafter Bethesda site, Appendix “A” attached) was first zoned in 1967 as a planned development under ordinance 5-67, which acknowledged the permitted site uses related to hospital operations with additional site restrictions concerning height of buildings, setback and green belt requirements, access restrictions, and fence restrictions. In 1998 Council adopted the planned development overlay process for all planned developments in the community. This ordinance established a procedure to convert planned development districts, such as the hospital district created in 1967 and amended in 1995, to the planned development overlay process. The conversion required Council, when the property owner applied for any substantive modification to the planned development, to rezone the property to one of the conventional zoning districts (at that time Districts A through E) while imposing upon the particular property the planned development overlay restrictions. In 1995 the hospital development restrictions were modified in part by Ordinance 21-1995, and the hospital entered into an agreement with neighboring residential properties on the south property line providing certain protective covenants and restrictions between the hospital and these property owners.

(b) Purpose. With this history in mind, the purpose of this Section as codified is to establish the underlying conventional

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

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

(1) Principally Permitted Uses

Hospital and related healthcare facilities including extended care facilities, medical office and outpatient service facilities, and medical and nursing education and research facilities.

(2) Accessory Permitted Uses

(a) Residential uses for hospital personnel or housing exclusively for persons temporarily visiting patients.

(b) Pharmacies and other retail facilities servicing the hospital when located in a building in which the

primary use is a principally permitted use.

- (c) Places of worship.
- (d) Parking for the hospital site.

(3) Other Uses

Any additional permitted and accessory uses within the “O” Office District are recognized for the Bethesda site. Any conditionally permitted uses from the “O” Office District which have not been recognized herein as Permitted or Accessory Uses for the Bethesda site shall remain conditionally permitted for the site and must be considered pursuant to Chapter 150.16. By way of an example, and not by way of limitation, the “O” Office District recognizes hospitals as a conditionally permitted use. The

1967 ordinance, as modified by the 1995 ordinance and adopted herein as Section 151.1216(C), recognizes *Hospitals* as a permitted use for the site. Therefore, any site development within the defined *Hospital* use does not require a review under Section 150.16 for development expansion, but as a permitted use any development expansion within the *Hospital* use requires Section 150.14 Development Plan Approval.

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

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

**Schedule 151.1216(d).**

**MAXIMUM BUILDING HEIGHT PER STORY**

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

- (2) Building and Parking Setback Requirements. Structures shall be set

back a minimum of 50 feet from the north, east and west boundaries of the



- property. Structures in excess of 60 feet in height shall be setback an additional one (1) foot for each foot by which the building exceeds 60 feet. Surface parking may be constructed to within 25 feet of the north, east and west boundaries.
- (3) Greenbelt. Along the south line of the property to a depth of 150 feet there shall be a greenbelt which shall include berming and planting as follows:
- (A) Along the south line of the property, commencing 150 feet west of Parcel 149, Page 9, of Hamilton County Auditor's Book 603, to a depth of 150 feet there shall be a greenbelt maintained and planted with trees and shrubbery, which shall extend to the easternmost property line of Parcel 140, Book 9, Hamilton County Auditor's Plat Book 603. Within the greenbelt, east and west berms shall be maintained with a one (1) to three (3) slope, a minimum of eight (8) feet in height, and shall substantially screen the adjacent residential properties from the parking areas and other developments on the subject property and the light and glare therefrom.
- (B) The west berm shall be established along the south property line behind Parcels 145 through 149. The berm's center line shall be 54 feet north of the south line of the property beginning at a point approximately midway between the east and west property lines of Parcel 145 at the edge of the existing tree cover, and continuing westward behind Parcel 148. At the western edge of Parcel 148, the centerline shall bear 30 degrees northwest until it intersects a berm center line running parallel to the south property line and 100 feet north of the property line behind Parcel 149. The berm's centerline shall proceed at 52 degrees southwest to intersect the property line of Parcel 149.
- (C) In the area where no tree cover exists adjacent to the dead end of Pendery Drive, the east berm shall be constructed approximately 80 feet inside the property line and shall extend 100 linear feet. After planting, the east berm shall be maintained in a natural state.
- (D) Those areas within the greenbelt in which no berm is required shall remain covered with existing trees and other vegetation, provided that the existing wooded area is maintained to a depth of 150 feet from the south property line. For those residents whose properties abut the existing wooded area, the owner of the subject property shall offer to plant Eastern Hemlocks within the wooded area, recognizing that the planting of each tree may require some clearing. The maximum number of trees shall be 15 trees per 100 linear feet of property line. These trees shall have a minimum height of five (5) feet. For this purpose, an adjacent homeowner will be determined by an extension of the eastern and westernmost property lines of each resident's property.
- (E) Plantings shall be installed and maintained on the earth berms, which shall meet the following minimum standards. The majority of the following required plant materials are to be located within the top one-third (1/3) portion of the berm, on the side facing the residential property.
1. Every 100 linear feet shall contain at least five (5) deciduous trees. These trees shall have an average height of 15 feet at the time of planting.

Recommended plants are Maple, Ash, Linden, and Oak or their equal.

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

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

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

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

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

(2) Tree Replacement. No trees within the greenbelt shall be removed except as may be necessary to work being performed on recorded easements or

to remove dangerous or diseased trees. Any trees removed for any reason shall be replaced within 90 days, where possible, with the same or similar species and shall at the time of planting, conform to the planting sizes specified in subsection (3) E above.

(3) Construction Criteria within 250 Feet of Property Line. The setbacks from district lines shall be maintained as contained in (c)(1) and (2) of this Section. Any construction within 250 feet north from the corner of Radabaugh Drive and Montgomery Road shall be done in an architectural style that shall reflect the transition from the residential uses along Radabaugh to the larger structures located further north on the property.

(4) Access. All development shall be such that no entrance or exit, public or private, shall be to or from any public right-of-way other than Montgomery Road.

#### **§ 151.1216 DEVELOPMENT PLAN REVIEW.**

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

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

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

**§ 151.3201 PURPOSE.**

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

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

**§ 151.3202 PARKING FACILITIES REQUIRED.**

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

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

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

**§ 151.3203 UNITS OF MEASURE.**

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

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

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

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

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

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

**§ 151.3204 OFF-STREET PARKING STANDARDS.**

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

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

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

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



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

NOTES TO SCHEDULE 151.3204

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

**§ 151.3205 ALLOWANCE FOR SHARED PARKING.**

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

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

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

#### **§ 151.3206 ALLOWANCE FOR PARKING RESERVES**

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

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

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

#### **§ 151.3207 SPECIFIC STANDARDS FOR THE OLD MONTGOMERY DISTRICT.**

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

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

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

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

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



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

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

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

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

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

(a) Minimum Number of Waiting Spaces:

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

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

(measuring 8 feet by 18 feet) exclusive of access drives and shall not interfere with parking or circulation.

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

**§ 151.3209 PARKING SPACES FOR PERSONS WITH DISABILITIES.**

In accordance with the Americans with Disabilities Act (ADA) of 1990, all new construction and alterations to places of public accommodation and commercial facilities shall provide parking spaces that are designed and constructed to be readily accessible to persons with disabilities. The required spaces and their dimensions shall be in accordance with the Montgomery Code of Ordinance § 76.11 and the Ohio Basic Building Code, respectively.

**§ 151.3210 PARKING DESIGN STANDARDS.**

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

(b) Compact Car Design Standards. Up to 30 percent of the minimum required parking spaces may be designed for use by compact cars, which are motor vehicles smaller than seventeen (17) feet in length. Any reduction in the total parking area obtained as a result of using compact-sized spaces may be landscaped and will count towards the total required landscaping for the parking lot as specified in §151.3408. Compact-sized parking spaces shall be located in 1 or more continuous areas and shall not be intermixed with spaces designed for full size cars. Compact-size spaces shall be labeled as “Compact Cars Only” and clearly marked with pavement marking. The minimum parking dimensions for full size and compact vehicles are set forth in Schedule 151.3210(a) and 151.3210(b) based on the angle of spaces.

**Schedule 151.3210(a)**

**PARKING DESIGN STANDARDS FOR FULL SIZE VEHICLES**

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

Notes to Schedule 151.3210:

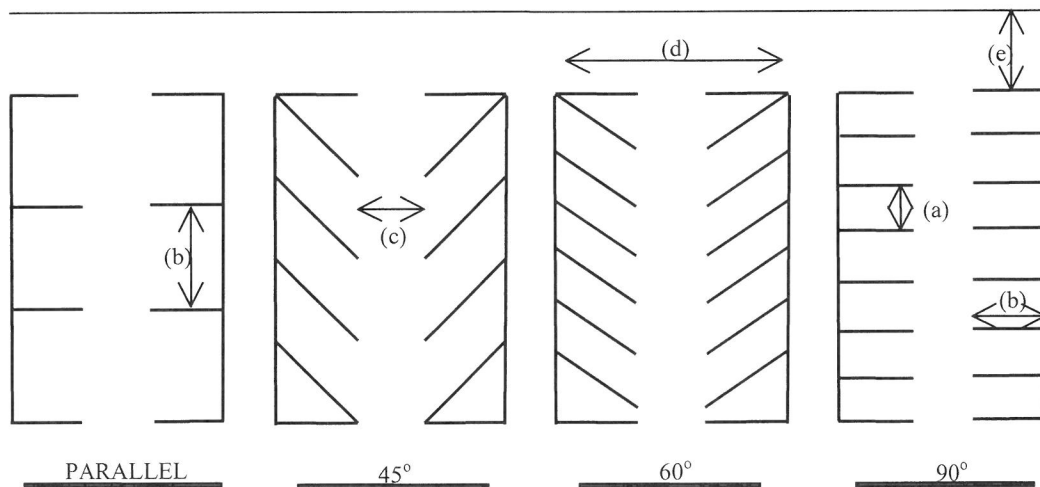
<sup>(1)</sup> When a parking space is adjacent to a landscaped area that has a width greater than six feet, the length of the parking space may be reduced by not more than 2 feet.

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

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

Notes to Schedule 151.3210:  
<sup>(1)</sup> When a parking space is adjacent to a landscaped area or sidewalk that has a width greater than six feet, the length of the parking space may be reduced by not more than 2 feet.

**Figure 151.3210  
ILLUSTRATION OF PARKING DESIGN STANDARDS**



( ) Letters refer to subsections on Schedule 151.3209.

**§ 151.3211 REGULATIONS FOR ACCESS DRIVES.**

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

easement, in which case, no setback is required between the properties sharing the easement. Residential access drives must also be in conformance with Chapter 93 of Montgomery Codified Ordinances.

Pedestrian and vehicular access and circulation for the Old Montgomery Gateway District is regulated by Section 151.1510. In all other cases, the location,

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

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

(b) Number of Drives.

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

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

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

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

#### **§ 151.3212 OFF-STREET LOADING REQUIREMENTS.**

Off-street loading requirements for the Old Montgomery Gateway District are

provided in Section 151.1510. For all other districts, when off-street loading spaces are provided for business and commercial buildings, they shall comply with the following regulations:

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

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

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

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

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

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

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

#### **§ 151.3213 IMPROVEMENT AND MAINTENANCE STANDARDS.**

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

(a) Paving. All parking and loading areas and access driveways shall have asphalt or other similar hard surface approved by the City Engineer. Pervious pavement may be used for all driveways, parking areas, curbs and bumper guards if reviewed and approved by the City Engineer. All interior landscaped areas shall have protective curbs along the edges to protect the landscaping from vehicles; however, the curbs shall be perforated or have caps or breaks to allow for stormwater runoff to pass through them, unless determined to be inappropriate by the City Engineer.

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

at least one stormwater BMP is installed; otherwise, the reconfiguration of the parking area shall be reviewed by the Planning Commission. Drainage will be consistent with all other applicable standards of the City of Montgomery.

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

(1) Height: The height of all light poles for parking and other public areas for permitted and conditional uses in all residential districts and the OM Core District, shall not exceed 20 feet. The height of all light poles in the O Office and L-B, G-B and OM Outer Business Districts shall not exceed 25 feet. Institutional uses in residential and office districts may be permitted a higher pole for accessory recreational uses as part of the approval of a conditional use permit when it can be shown that there will not be a significant impact on surrounding properties. Lighting inside or directly adjacent to a stadium which is intended to light the playing field will be the only pole lighting which may be exempted by the Planning Commission from the height and full cut off requirement. The height of a light pole shall be measured from the ground, including any bases upon which the light pole sits, up to the highest extension of the pole or structure, regardless of the position of the light source.

(2) Fixture: All light poles shall use luminaires with a 90 degree full cutoff with a flat lens. Light poles under 15 feet in height using incandescent lighting or which produce light directly by the combustion of fossil fuels, such as kerosene or gas lamps may be exempted from the full cutoff requirement. When a business or

public institution uses a high intensity (HID) type of bulb on an exterior wall mounted fixture, the bulb must be housed in a full cut off fixture mounted at a 90 degree plane from the ground and may not be directly visible from five feet beyond the property line.

- (3) Type of Light: Lamp types for parking areas may be high pressure sodium, metal halide or light emitting diode (L.E.D). When appropriate, incandescent and lighting produced directly by the combustion of fossil fuels may be approved. Low pressure sodium and mercury vapor lamps are prohibited.
- (4) Light Trespass: The height and location of poles shall be designed such that the maximum light spillage onto the ground of any adjoining

private property shall not exceed .01 footcandles at any point 5 feet from the property line.

- (5) Illumination levels: The maximum lighting levels for parking, and outdoor activities for institutional uses in residential districts shall be established by the Planning Commission as part of the conditional use permit. The maximum lighting levels for parking areas, outdoor seating, and inventory display areas in the Office, Retail and Old Montgomery districts are set forth is Schedule 151.3212 ( c). Lighting levels are determined by the average maintained number of foot-candles at the ground level.
- (6) Light poles used for public roadway illumination are exempt from the requirements of this § 151.3212(c).

**SCHEDULE 151.3213(c)(i)**

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

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

**SCHEDULE 151.3213(c)(ii)**

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

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

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

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

(e) Marking. Any off-street parking area for 5 or more parking spaces shall indicate the location of each parking space, the location of spaces for persons with disabilities, and the location and direction or movement along the aisles and access drives providing access thereto by painting upon



the surface, by raised directional signs, or by markers or other similar measures placed in the surface.

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

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

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

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

#### **§ 151.3215 DEVELOPMENT PLAN REVIEW.**

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