

ORDINANCE NO.: 5-2007
INTRODUCED BY: Morgan

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE ZONING CODE RELATING TO BUSINESS REGULATIONS AND ZONING DISTRICTS TO ADD NEW CHAPTERS 1151 AND 1169, TO DELETE EXISTING CHAPTERS 1151, 1155, 1159 AND 1163, AND TO AMEND SECTIONS 1123.02, 1123.03, 1123.05, 1123.07, 1123.08, 1173.04, 1173.05, AND 1177.02.

WHEREAS, during most of 2006, the Planning and Zoning Committee of Council, the Planning Commission, and City staff have reviewed and discussed needed amendments to the regulations of the Zoning Code pertaining to businesses and business zoning districts in the City and the City hired a professional consultant, Northstar Planning & Design, Inc., to assist it in reviewing and revising the business regulations and business zoning districts; and

WHEREAS, having thoroughly studied the issues involving the City's business zoning regulations and districts, the Planning and Zoning Committee of Council has recommended to the Council as a whole to adopt the regulations in this Ordinance to further the public health, safety and general welfare of the City of Richmond Heights, its businesses, property owners and residents;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Existing Sections 1123.02, 1123.03, 1123.05, and 1123.07 of Chapter 1123, "Definitions", of Title 4, "Zoning Code", of the Planning and Zoning Code of the City are hereby amended as set forth below and the lettered subsections of the aforesaid sections of the Code shall be re-lettered in order to place the terms as defined in the subsections into alphabetical order by subsection:

Add New Subsections:

1123.02(e) Bar or Tavern. "Bar" or "Tavern" means a place of business dispensing beer, wine, spirituous liquors, or mixed beverages by the drink for on-site consumption, and in which the sale of food products for on-site consumption is incidental or secondary to dispensing of said drinks.

1123.02 (f) Banquet Facility. "Banquet facility" means a place of business at which the principal activity is service of food and beverage to large groups of people as opposed to individual table service as in a restaurant. A banquet facility is typically rented for purposes of special events such as weddings, meetings, or other large group activities.

1123.03 (k) Day Care Center. "Day care center "means a building or structure where care, protection, and supervision are provided for individuals on a regular basis away from their primary residence for less than 24 hours a day, with or without compensation and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, and centers for mentally retarded children,

but specifically excludes any family day care home (as defined by the Ohio Revised Code) or group home.

1123.03 (p) Drive-Through Facility. "Drive-through facility" means an accessory use which involves sale or delivery of goods or services to customers in the customers' vehicles or which involves delivery or return of goods to the site by customers in their vehicles. In a typical drive-through facility, one or more lanes are provided for customer-driven vehicles stacked or lined up for service or delivery or for access to a service window or drop off structure. A drive-through facility may also include an area in which customers park their vehicles and receive goods or services while seated in the vehicles. The areas and structures included in a drive-through facility may include the stacking lanes, parking spaces used while waiting for delivery of goods, menu boards, speakers, service windows, vending or service machines, and drop off containers. Examples of drive-through facilities include drive-through or drive-in restaurants, drive-up bank tellers, drive-up automatic teller machines, book or videotape drop-offs, car wash, parcel or material pickup, and postal or private delivery service boxes.

1123.05 (d) Garden Center. "Garden center" means a place of business where retail garden and yard products are sold to the consumer, including such products as plants, seeds, planting materials (such as soil, mulch, fertilizer) in containers only, garden hardware and equipment, tools, and related seasonal products such seasonal decorations

1123.07 (l) Restaurant. "Restaurant" means a place of business where food and beverages are prepared and assembled as meals and sold for consumption on the premises or in another location. The term "restaurant" does not include a grocery store, bakery, or other business in which the primary activity is preparation and sale of separate food items for off-premises consumption.

1123.08 (a) Tavern or Bar. "Tavern" or "Bar" means a place of business dispensing beer, wine, spirituous liquors, or mixed beverages by the drink for on-site consumption, and in which the sale of food products for on-site consumption is incidental or secondary to dispensing of said drinks.

Delete Existing Subsection:

1123.03 (o) Drive-in Restaurant. "Drive-in restaurant" means any establishment where food, frozen desert and/or beverages are served to customers while seated in their motor vehicles upon the premises. The definition also includes any establishment where customers may serve themselves and are permitted to consume food and beverage in a motor vehicle parked on the premises or at other facilities which are provided for the use of the patron for the purpose of consumption and which are located outside the building or structure.

Section 2: Existing Chapter 1151, "O-S Office-Service District", of the Zoning Code is hereby amended to adopt new Chapter 1151, entitled "O-S Office-Service District, B-1 Local Business District, and B-2 Regional Business District", to hereafter read as follows:

**CHAPER 1151
O-S OFFICE-SERVICE DISTRICT, B-1 LOCAL BUSINESS DISTRICT
AND B-2 REGIONAL BUSINESS DISTRICT**

1151.01 INTENT.

- (a) The O-S Office-Service District is designed to:
- (1) Accommodate various types of office uses performing administrative and professional services
 - (2) Serve as a transitional use between the more intensive uses of land such as major thoroughfares and/or commercial districts and the less intensive uses of land such as single-family residential.
 - (3) Limit commercial establishments of a retail nature or other activities which generate short-term parking demand and traffic from the general public.

- (b) The B-1 Local Business District is designed to:
- (1) Provide for the day-to-day convenience shopping and service needs of persons residing in the vicinity of the business.
 - (2) Provide for and be characterized as having individual free-standing structures or a grouping of strip stores of a size generally not exceeding 5,000 square feet of floor space for each individual business.
- (c) The B-2 Regional Business District is designed to:
- (1) Serve the needs of both convenience and comparison shoppers from a geographical area extending beyond the adjacent residential areas.
 - (2) Be characterized by an integrated or planned cluster of establishments exceeding 25,000 square feet of floor space served by a common parking area and generating large volumes of vehicular traffic.

1151.02 DISTRICT LOCATION STANDARDS.

- a. A B-1 District shall only be located at the intersection of major thoroughfares.
- b. A B-2 District shall only be located at the intersection of the two major thoroughfares bearing the greatest volumes of traffic, Wilson Mills Road and Richmond Road.
- c. An O-S District shall only be located on property at the intersection of major thoroughfares or abutting a B-1 or B-2 District. All properties in the OS District shall have frontage on a major or secondary thoroughfare.

1151.03 PERMITTED, CONDITIONAL AND SPECIFICALLY PROHIBITED USES.

Uses in the O-S, B-1 and B-2 Districts shall be as set forth in Table 1151.03.

| Table 1151.03 Permitted, Conditional, and Specifically Prohibited Uses O-S, B-1, and B-2 Districts | | |
|--|--|--|
| O-S Office-Service District | B-1 Local Business District | B-2 Regional Business District |
| Permitted Uses | | |
| <i>Office & Government Uses</i> | | |
| Executive, administrative and professional offices. Government office buildings Public utility offices, but not including storage yards. | Executive, administrative and professional offices. Government office buildings Public utility offices, but not including storage yards. | Professional, administrative, executive , offices Government office buildings Public utility offices Sales offices, without merchandising services. |
| Medical offices, including clinics and medical laboratories. | Medical offices, including clinics and medical laboratories. | Medical offices, including clinics and medical laboratories. |
| Libraries | Libraries | Libraries |
| Facilities for human care such as hospitals | Facilities for human care such as hospitals | |
| | Post office and similar government buildings. | |
| <i>Retail and Service Uses</i> | | |
| Establishments which perform personal services on the premises, such as beauty parlors and barber shops. | Establishments which perform personal or professional services on the premises such as 1. Beauty parlors, barber shops, 2. Repair shops including watches, radios, televisions, shoes and etc., but prohibiting major repair shops such as automotive, heavy equipment, large appliances, furniture, etc., 3. Tailor shops, 4. Self-service laundries and cleaners, dry cleaning and laundry establishments provided cleaning equipment is used to service only the premises at which it is located. 5. Banks and similar financial institutions. 6. Photographic studios and interior decorating studios. | Service establishments, such as 1. Beauty and barber shops; 2. Laundry agencies; dry cleaning agencies, provided only non-explosive and nonflammable solvents shall be used, and provided no work shall be done on the premises for other outlets; self-service laundries 3. Shoe and hat repair shops; 4. Radio and television repair shops; 5. Banks and savings and loan associations; 6. Photographic studios; 7. Automotive repair and parts accessory sales if accessory to a main building or use. |

| | | |
|--|--|---|
| | Convenience stores of a generally recognized retail nature which supply commodities on the premises, such as but not limited to: 1. Groceries, meats, dairy products, baked goods or other foods, 2. Drugs, dry goods, clothing, notions 3. Hardware. | Retail stores conducted wholly within enclosed buildings offering products for sale to the following extent: 1. Groceries, meats, fruits, vegetables 2. All general merchandise, dry goods, notions; 3. Wearing apparel, shoes, hats; 4. Household hardware, wallpaper, paint 5. Furniture, appliances, floor covering 6. Sporting goods 7. Drugs, tobacco, periodicals 8. Flowers, gifts, jewelry 9. Sale, at licensed stores, of packaged alcoholic beverages not to be consumed on the premises |
| | | Restaurant with no drive-through facility. |
| Other Uses | | |
| Public or private schools or colleges. | Public or private schools or colleges. | |
| Facilities for human care such as convalescent and nursing homes | Facilities for human care such as convalescent and nursing homes | |
| Churches and related facilities. | Funeral homes. | |
| | Photographic reproduction, blueprinting and print shops. | |
| | Establishments of electricians, plumbers, heating contractors, bakers, painters or similar trades in conjunction with a retail sales operation. | |
| Accessory Uses | | |
| Accessory buildings or uses customarily incidental to any of the above permitted uses | Accessory buildings or uses customarily incidental to any of the above permitted uses | Accessory buildings or uses customarily incidental to any of the above permitted uses |
| Conditional Uses | | |
| O-S Office-Service District | B-1 Local Business District | B-2 Regional Business District |
| Restaurant | Bar, tavern, restaurant. Restaurant with outdoor dining or service. Restaurant with drive-through facility | Restaurant with outdoor dining or outdoor service. Drive-through facility prohibited. |
| Retail use accessory to a permitted or conditionally permitted use | Studios and classrooms for instruction in dance, yoga, martial arts, painting, sculpture, job skills, and similar | Amusement and recreation uses within an entirely enclosed soundproofed building, such as: (1) Assembly and meeting halls; (2) Bowling alleys, billiard halls; (3) Theaters. |
| Day care center | Day care center | Day care center |
| Banquet Facility | Hotel, motel | Hotel |
| | Veterinary clinics and veterinary hospitals | Garden Center |
| | Banquet Facility | Drive-through facility |
| | Drive-through facility | |
| Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations. | Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations. | Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations. |
| Auto Repair & Service Uses | | |
| | Gasoline service stations as controlled by Chapter 1165 and Chapter 1169. | |
| | Self-service auto laundries as controlled by Chapter 1165 and Chapter 1169. | |
| | Automotive major repair | |
| Similar Use | | |
| See standards for Similar Use as a conditional use in Section 1169.08 | See standards for Similar Use as a conditional use in Section 1169.08 | See standards for Similar Use as a conditional use in Section 1169.08 |
| Specifically Prohibited Uses | | |
| O-S Office-Service District | B-1 Local Business District | B-2 Regional Business District |
| Dwelling units of all types are prohibited. | Dwelling units of all types are prohibited. | Dwelling units of all types are prohibited. |
| Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized | Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized | Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized |

| | | |
|---|--|--|
| according to the provisions of this Zoning Code. | according to the provisions of this Zoning Code. | according to the provisions of this Zoning Code. |
| Warehousing or indoor storage of goods or materials not incidental to the above permitted uses shall be prohibited. | | |

1151.04 ADDITIONAL USE RESTRICTIONS.

- (a) No activity shall be conducted in a manner which is obnoxious or offensive by reason of the emission of odor, fumes, dust, smoke, waste, noise or vibration in excess of the performance standards set forth in Section 1171.05.
- (b) The outdoor storage, display or sale of goods or materials shall be prohibited except as specifically authorized in this chapter or as authorized by a conditional use permit.
- (c) Warehousing or indoor storage of goods or material shall be prohibited except where incidental to an authorized permitted or conditional use.
- (d) The following regulations shall apply to uses in the O-S Office Service District:
 - (1) No interior display shall be visible from any property line.
- (e) The following regulations shall apply to uses in the B-1 Local Business District:
 - (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
 - (2) All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, except as specifically permitted under this chapter.

1151.05 YARD, AREA AND BULK REQUIREMENTS.

Yard, area and bulk requirements shall be as required in Chapter 1173.

1151.06 OFF-STREET PARKING.

Off-street parking shall be as required in Chapter 1175.

1151.07 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177.

1151.08 SIGNS AND LIGHTING.

Signs and lighting shall be as required in Chapter 1179.

1151.09 SITE PLAN REVIEW.

- (a) No building or structure shall be erected or land used in an O-S, B-1, or B-2 District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission within sixty (60) days after the site plan has been presented at a public meeting of the Commission.
- (b) When recommending the approval of a site plan, the Planning Commission may recommend conditions necessary to secure the following objectives:
 - (1) That all development features, including but not limited to the principal and accessory buildings, open spaces, service roads, driveways and parking areas, shall be located to encourage pedestrian and vehicular traffic safety; and
 - (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

Section 3: Existing Chapter 1151, "O-S Office-Service District", Chapter 1155, "B-1 Neighborhood Business District", Chapter 1159, "B-2 Regional Business District", and Chapter 1163, "B-3 General Business District", of the Zoning Code of the Codified Ordinances of the City are hereby repealed.

Section 4: Title Five, "Zoning Code", of Part Eleven, "Planning and Zoning Code", of the Codified Ordinances of the City is hereby amended to add new Chapter 1169, "Conditional Uses", to hereafter read as follows:

CHAPTER 1169 CONDITIONAL USES

1169.01 PURPOSE.

The purpose of this Chapter is to establish standards and procedures for review of uses which have the potential to be compatible with the districts in which they are listed as conditional uses but which, due to the nature of their operation, appearance, or other characteristics, require individual review and control of their location, design, intensity, configuration, and impacts upon the district and the community in order to ensure such compatibility and preservation of the district and community.

1169.02 CONDITIONAL USES GENERALLY.

- (a) A use listed as a conditional use shall not be permitted by right. The identification of a use as a conditional use in a district shall not establish or imply any rights for approval of the use of any lot, nor shall the approval of a conditional use on one lot establish or imply any rights for approval of the same use on any other lot. Listing as a conditional use shall afford the opportunity to submit an application for a conditional use permit, which may be approved or denied on the basis of the provisions of this Zoning Code.
- (b) When a use is listed in this Zoning Code as a conditional use for a district, the conditional use of land, building, or structure shall not be established until a conditional use permit has been reviewed and recommended by the Planning Commission and approved by City Council according to the procedures of this Zoning Code and until the conditional use permit is issued by the Building Commissioner.

1169.03 APPLICATION FOR CONDITIONAL USE PERMIT.

An applicant for a conditional use permit shall submit an application to the Building Commissioner. At a minimum, an application shall include the following information:

- (a) Use Information:
 - (1) A statement of the specific conditional use or uses listed in this Zoning Code for which the application is submitted.
 - (2) A description of the activities proposed on the site, including the goods and services, hours of operation, anticipated number of employees, nature and volume of delivery activity, characteristics of vehicular activity, and other information which clearly documents the nature of the proposed use and its potential impacts.
 - (3) A statement discussing the compatibility of the proposed use with the existing and permitted uses of adjacent properties and with any plans adopted by the City, including an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, vibration, and storm water.
 - (4) A statement addressing each of the applicable criteria set forth in Section 1169.07 (Standards for all Conditional Uses) and, as applicable, of Section 1169.08 (Standards for Specific Conditional Uses).
- (b) Site Plan Information: Information and exhibits describing the site and building layout and locations of all structures, paved areas, uses on the lot, and all uses and zoning district designations of adjoining properties and properties across a public right-of-way.
- (c) Additional Information: Upon review of the application, the Planning Commission may find that additional information is necessary to make a determination of the compliance of the proposed use with the provisions of this Zoning Code. The Planning Commission may determine that additional studies or expert advice are necessary to evaluate a proposed conditional use relative to the requirements of this ordinance and shall advise the applicant if such studies or advice are required. The Planning Commission may accept the required studies prepared by qualified professionals engaged by the applicant or may require the applicant to deposit with the City funds as required to pay for such studies.

1169.04 NOTICE AND HEARING.

- (a) The Planning Commission shall, upon determining that the application for conditional use is complete, set a public and administrative hearing for its next regularly scheduled meeting and shall instruct the Secretary of the Commission to publish notice at least seven (7) days prior to the public hearing.
- (b) The Planning Commission shall conduct a public and administrative hearing on the date and time published.

1169.05 REVIEW AND ACTION BY COMMISSION AND COUNCIL.

- (a) Action by Planning Commission. The Planning Commission shall review the application for conformance with the provisions of this Zoning Code, including the standards set forth in Section 1169.07 (Standards for all Conditional Uses) and, as applicable, of Section 1169.08 (Standards for Specific Conditional Uses), and shall, within a reasonable time after conclusion of the hearing, take one of the following actions:
 - (1) Recommend approval of the proposed conditional use permit. In recommending approval, the Planning Commission may recommend appropriate conditions and safeguards which are more strict than the requirements of this Zoning Code, and which are in conformance with the intent and purposes of this Zoning Code for the protection of nearby property and the public health, safety and general welfare.
 - (2) Recommend denial of the application, stating in the motion the reason(s) for recommending denial.
 - (3) The recommendation of the Planning Commission shall be forwarded to City Council.
- (c) Action by Council.

Within sixty (60) days (or a longer period with consent of the applicant) after receipt of a Planning Commission recommendation, City Council shall take action to approve, approve with additional conditions, or deny the permit.

 - (1) Approval of a conditional use permit by City Council shall authorize the Building Commissioner to issue the conditional use permit.
 - (2) If City Council denies the conditional use permit, then the Clerk of Council shall notify the applicant in writing and no further action shall be taken.
 - (3) If no action is taken by Council within sixty (60) days after receipt of the recommendation of the Planning Commission, then the applicant may deem the application to have been denied.

1169.06 ISSUANCE, EXPIRATION, REVOCATION, TRANSFER.

- (a) Upon conclusion of the procedures in 1169.03, 1169.04, and 1169.05, and approval of a conditional use by City Council, the Building Commissioner may issue a conditional use permit.
- (b) Expiration of Approval. Approval of a conditional use permit approved by City Council shall expire twelve (12) months from the date of approval unless construction has commenced or the use established. A single extension of the conditional use permit, not to exceed six (6) months, may be granted by City Council after written request by the applicant.
- (c) No application for a conditional use permit which has been denied wholly or in part by City Council shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Planning Commission and Council.
- (d) Revocation.
 - (1) If the Building Commissioner finds that any provision of this Chapter relating to a conditional use permit is being violated or that any condition, safeguard, or requirement of a conditional use permit is being violated or breached, the Building Commissioner shall send a written notice by certified mail to the owner of the property, indicating the nature of the violation and ordering the action necessary to correct it.
 - (2) The notice shall state what action the Building Commissioner intends to take if the violation is not corrected and shall advise that the Building Commissioner's decision or order may be appealed to City Council within ten (10) days of receipt of the notice.

- (3) If no appeal is filed, the Building Commissioner shall take necessary and appropriate action to resolve the violation. If an appeal is filed, all action shall be stayed unless the Building Commissioner prepares a statement, as approved by the Law Director, certifying that the situation poses imminent peril to the public health, safety or welfare of persons or property and that immediate action is warranted.
- (4) If an appeal is filed, City Council shall set a date for hearing. At least ten (10) days prior to the hearing, written notice shall be issued to the property owner.
- (5) Council shall conduct the hearing at the date and time established, shall consider the appeal and the record and shall determine the action to be taken. Council may take any of the following actions:
 - A. Amend the terms of the conditional use permit.
 - B. Revoke the conditional use permit.
 - C. Order the Building Commissioner to take action necessary to correct the violation.
- (6) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Chapter or pose a danger to the public health, safety, or welfare, the Building Commissioner may seek enforcement without prior written notice.
- (e) Transfer of Conditional Use Permit to New Owner of Conditional Use. A conditional use permit shall expire when ownership of the use is transferred to a new owner. A conditional use permit may be transferred to a new owner of the use for which the original permit was granted provided that the new owner shall submit a written request for transfer of the permit. The request shall include a statement ensuring compliance with all conditions of the original permit. The Building Commissioner shall inspect the premises for conformance with the original permit, shall review the record regarding the permit and the operation of the use, and shall transfer the conditional use permit to the new owner if the use is found to conform to the permit conditions or is brought into conformance.

1169.07 STANDARDS FOR ALL CONDITIONAL USES.

- (a) The Planning Commission shall determine, in making a decision to recommend approval of a conditional use or to deny a conditional use permit, if the proposed use will comply with the general standards in this Section 1169.07 and the specific standards in Section 1169.08 pertinent to each use indicated therein. The Planning Commission may recommend and City Council may approve such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of this Zoning Code will be observed.
- (b) The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use on the proposed location:
 - (1) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
 - (2) Will not be hazardous or unduly disturbing to existing or future neighboring uses;
 - (3) Will not be detrimental to property in the immediate vicinity or to the community as a whole;
 - (4) Will be served adequately by essential public facilities and services such as roads, police and fire protection, drainage structures, refuse disposal or schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service; and
 - (5) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public roads.

1169.08 STANDARDS FOR SPECIFIC CONDITIONAL USES.

In addition to the Standards for All Conditional Uses in Section 1169.07 above, the following standards shall apply to the specific conditional uses listed in this Section:

- (a) Banquet Facility in O-S District.
A banquet facility may be permitted in the O-S District subject to the following conditions:
 - (1) All dining and service shall be conducted within a completely enclosed building.
 - (2) Buildings, parking, storage, and all other uses shall be set back at least 50 feet from residential districts.

- (b) Restaurant, Bar, Tavern.
 - (1) Restaurant in O-S District.
A restaurant may be permitted as a conditional use in the O-S District subject to the following conditions:
 - A. All dining and service shall be conducted within a completely enclosed building.
 - B. Restaurant buildings, parking, storage, and all other uses shall be set back at least 50 feet from residential districts.
 - C. Drive-through facility is not permitted.

 - (2) Restaurant, Bar or Tavern in B-1 District.
A restaurant, bar, or tavern may be permitted as a conditional use in the B-1 District subject to the following conditions:
 - A. Outdoor Dining and Service. All dining and service shall be conducted within a completely enclosed building provided that outdoor dining and service may be conducted in a location at least 100 feet distant from all residential districts. The outdoor dining and service areas shall not exceed two-hundred fifty (250) square feet and shall be enclosed with wood or masonry walls as approved in the conditional use permit. Loudspeakers and live music performance shall not be permitted in the outdoor area.
 - B. Restaurant buildings, parking, storage, and all other uses shall be set back at least 50 feet from residential districts.
 - C. Drive-through facility is permitted in compliance with the standards for drive-through facilities at Section 1169.08(h) and with the following:
 - I. A drive-through facility accessory to a restaurant shall not be permitted nearer than one hundred fifty (150) feet to a residential district.
 - II. A setback of at least ninety (90) feet from the public street right-of-way line is required.
 - III. Vehicular access to the property shall only be permitted from an arterial street. If located on a corner lot, the access shall be at least fifty (50) feet from the intersection of the right-of-way lines.

 - (3) Restaurant with Outdoor Dining or Service in B-2 District.
A restaurant with outdoor dining or service may be permitted as a conditional use in the B-2 District subject to the following conditions:
 - A. Outdoor dining and service may be conducted in a location at least 100 feet distant from all residential districts.
 - B. The outdoor dining and service areas shall be enclosed with wood or masonry walls as approved in the conditional use permit.
 - C. Loudspeakers and live music performance shall not be permitted in the outdoor area unless it is determined that the sound will not be audible in any residential district.
 - D. Restaurant with drive-through facility shall not be permitted.

- (c) Amusement and Recreation uses such as assembly hall, meeting hall, bowling alley, billiard hall, theater, may be permitted subject to the following condition:
 - (1) Use shall be conducted within an entirely enclosed soundproofed building.

- (d) Veterinary clinics and veterinary hospitals may be permitted subject to the following conditions:

- (1) The use shall be designed to ensure that it will not create a nuisance in terms of noise, odor, safety, health, or other impacts.
 - (2) All activities associated with the use, except the outdoor waste area, shall be conducted inside a completely enclosed building, including any areas for confinement of animals.
 - (3) An outdoor pet waste area shall be provided for use by client pet owners to allow pets to defecate and urinate. Area shall be located at least fifty (50) feet from any property line. Facility operator shall submit a plan for daily cleaning of the area.
 - (4) Pets may be confined in the facility for short periods necessary for medical recovery, but no pet boarding is permitted.
 - (5) The operator shall identify the nature of all wastes to be generated by the use and shall submit a plan for storage and disposal.
- (e) Hotel and motel uses may be permitted subject to the following conditions:
- (1) A hotel or motel shall not be located on a lot abutting a residential district.
 - (2) Minimum lot shall be six (6) acres.
 - (3) Overnight parking of autos, pickup trucks, and recreational vehicles and similar vehicles designed for personal travel is permitted. Overnight parking of panel vans, semi tractors and trailers, or other vehicles is not permitted.
 - (4) The operator shall not permit a guest to occupy the hotel for more than thirty (30) consecutive days.
 - (5) Not more than twenty-five percent (25%) of the gross floor area may be used for uses incidental to the rental of rooms, including but not limited to newsstand, gift shop, lounge, or restaurant. Entry to incidental uses shall only be from an interior lobby or hall of the building.
- (f) Gasoline service stations and self-service auto laundries may be permitted subject to the following conditions:
- (1) Gasoline service stations and self-service auto laundries as controlled by Chapter 1165.
 - (2) Gasoline service stations and self-service auto laundries shall also comply with requirements for drive-through facilities at 1169.08(h) below, except that gasoline pumps may be located in front of the principal building.
- (g) Automotive major repair uses may be permitted subject to the following conditions:
- (1) The applicant shall submit a site plan to the Planning Commission detailing all intended uses and improvements of the lot, including paved areas and buildings, and all other information necessary to determine conformance with the provisions of this Zoning Code. The Commission shall make a report and recommendation to City Council. The zoning certificate shall only be issued in conformance with a site plan approved by City Council.
 - (2) Automotive major repair shall be limited to automobiles, small vans and light trucks. Recreational vehicles, commercial trucks, and other large or heavy vehicles and equipment shall not be repaired on the lot.
 - (3) Landscaping shall be installed and maintained in the following areas as approved in the site plan as follows:
 - A. A landscaped area shall be installed and maintained in all areas abutting the public right of way to a depth of not less than fifteen feet.
 - B. Where any lot line abuts a lot in a nonresidential zoning district, a landscaped area shall be maintained and installed to a width of not less than five feet.
 - C. Where any lot line abuts a lot in a residential zoning district, either
 - (i) A solid wall six feet in height shall be installed abutting the property line; or
 - (ii) A wood fence six feet in height shall be installed abutting the property line and all pavement, parking, storage and all other activities shall be set back at least thirty feet from the lot line.
 - (4) Exterior lighting shall only be installed as approved in the site plan.

- (5) Vehicle doors shall not be located on any side of the building facing a residential zoning district. Vehicle doors shall not be located facing a public street unless the Planning Commission determines that the orientation is unavoidable. Windows and man-doors located on any side of the building facing a residential zoning district shall be self-closing in order to control noise impacts on the residential district.
 - (6) If the lot abuts a residential zoning district, automobile major repair shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m.
 - (7) The following shall only be permitted in locations on the lot indicated on the approved site plan.
 - A. Vehicle parking, including vehicles which are missing body parts or which are severely damaged;
 - B. Storage of vehicle parts and other materials or wastes.
 - (8) Outside operations are prohibited except for hand washing or waxing of vehicles.
 - (9) Outside speakers, bells and similar sound-producing equipment are prohibited.
 - (10) Except as otherwise provided in this Zoning Code, vehicle sales and the exterior display or storage of materials for sale are prohibited.
- (h) Drive-through facilities may be permitted subject to the following conditions:
- (1) The applicant shall provide a traffic study (which shall be satisfactory to the Planning Commission and City Council in preparer qualifications, content, analysis, conclusions and recommendations) which projects the vehicular use (including but not limited to vehicle types, volumes, and other information) of the proposed facilities and evidences compliance with the provisions of this Zoning Code.
 - (2) Lanes required for vehicle access to, waiting for use of, and service within a drive-through facility shall be designed with sufficient length to accommodate the peak number of vehicles projected to use the facility at any one time, to provide escape/abort lanes for vehicles desiring to leave the stacking lanes or to avoid disabled vehicles, and to minimize impacts on the use of other required parking or drives, impacts on abutting roads, and hazards to pedestrians.
 - (3) Drive-through facilities, their stacking areas, and routes of access shall be located to not interfere with or cause interference with vehicles or pedestrian movement on the public roads or within the site. Stacking areas for drive-through facilities shall not be the sole or primary site egress route. Stacking areas shall not utilize parking or aisles required for access to parking.
 - (4) Drive-through facilities shall be located on that part of a site which is most distant from or most screened from the abutting residential districts. Where site conditions necessitate locating a drive-through facility near to the residential district (and is not otherwise prohibited), the area between the facility and the residential district shall be screened as approved in the conditional use permit.
 - (5) Business establishments with drive-through facilities shall provide a minimum of four (4) stacking spaces per facility and additional spaces determined necessary in the traffic study.
 - (6) Drive-through facilities shall not be located in front of the principal building.
 - (7) The applicant shall eliminate or reduce the impacts of lighting, litter, noise, and exhaust resulting from the facility, especially impacts on nearby residential uses, through proper design of the site, operation of the use, and other methods.
 - (8) Drive-through facilities which utilize microphones or other audible signals shall be designed to minimize sound impacts upon abutting uses and shall not create more than 40 dBA at the property line.
 - (9) Hours of operation shall be as approved with the site plan. Conditions may be established restricting the hours of operation in order to reduce inappropriate impacts on abutting uses and on public street traffic and to ensure compatibility with normal vehicular activity in the district.
 - (10) Drive-through facility accessory to a restaurant shall comply with applicable provisions of Section 1169.08b.

- (i) Garden centers may be permitted subject to the following conditions:
 - (1) Outdoor sales, storage, or display shall only be permitted in areas identified on the approved site plan. No outdoor sales, storage, or display is permitted within fifty (50) feet of any road right-of-way. The activities shall not occupy any required public or private sidewalk, parking area or driveway.
 - (2) Any outdoor sales, storage, or display area located closer than one hundred (100) feet to a residential district shall, if determined to be visible from the district, be screened by a landscape buffer strip or other means indicated on the approved site plan.
 - (3) Outdoor displays shall be maintained in a neat and orderly fashion.
 - (4) The site plan submitted with an application for a conditional use permit shall indicate the types of merchandise to be displayed and, if applicable, any seasonal changes of display.
 - (5) Outdoor storage shall not include the storage or accumulation of waste products, except as specifically approved in the site plan.

- (j) Retail uses accessory to a permitted or conditionally permitted use in an O-S District may be permitted subject to the following conditions:
 - (1) The primary purpose of an accessory retail use shall be to serve customers or employees of a permitted or conditionally permitted principal use of the O-S District.
 - (2) The accessory retail use shall be wholly owned and operated as part of the principal use with which it is associated and shall occupy floor area not greater than 25% of the floor area of the entire business.
 - (3) Access to the accessory retail use shall only be through the space occupied by the principal use.
 - (4) The accessory retail use shall not have signs or advertising independent from that permitted for the principal use.

- (k) Similar Use.
 An applicant may submit an application for a conditional zoning certificate for a building or use which is not specifically listed as a permitted use or a conditionally permitted use in a district. The Planning Commission shall review the proposed use and recommend to City Council if the proposed use should be approved as a similar use based on the following standards and other applicable provisions of this Zoning Code. Further action by the Commission shall be delayed until Council determines that the proposed use is a similar use and shall be conditionally permitted in the district, at which time the Planning Commission shall proceed to review the application and shall make a recommendation to Council with regard to the conditional use permit and conditions.
 - (1) Whether the use has characteristics and impacts consistent with those of one or more of the permitted uses in the district; and the use has characteristics and impacts more consistent with those of the permitted uses of the subject district than with the permitted uses of any other district.
 - (2) Whether the establishment of the use in the district will significantly alter the nature of the district.
 - (3) Whether the use will create dangers to health and safety or create offensive noise, vibration, dust, heat, smoke, odor, glare, traffic, or other objectionable impacts or influences to an extent greater than normally resulting from permitted uses listed in the subject district.
 - (4) Whether the use typically requires site conditions or features, building bulk or mass, parking, or other requirements dissimilar from permitted uses; and whether the typical development of site and buildings for the use is compatible with those required for permitted uses and can be constructed in conformance with the standard regulations for height, lot dimensions, setbacks, etc. of the district.

- (l) Day care centers may be permitted subject to the following conditions:
 - (1) The location, orientation, and capacity of dropoff and loading areas shall be sufficient to prevent obstruction of public streets and sidewalks.
 - (2) Sufficient on-site parking shall be provided for staff and visitors.

1169.09 APPLYING STANDARDS TO PRE-EXISTING USES.

- (a) A conditional use permit shall be required for modification of a use (and for modification of the site and structures associated with such use) which was legally existing prior to the effective date of this Chapter 1169 or of subsequent amendments, and which is listed as a conditional use by this Zoning Code or Chapter 1169, or of subsequent amendments thereto.
- (b) When an application is submitted for a conditional use permit for modification and continuance of a use legally existing prior to the effective date of this Chapter 1169 or of subsequent amendments, the Planning Commission and Council shall exercise discretion in applying the standards set forth in Sections 1169.07 and 1169.08 which are applicable to the existing use. Such discretion may include waiver or partial application of the standards, subject to a finding or findings that compliance with one or more of the standards is infeasible or impractical.

Section 5: Existing Section 1173.04, "Nonresidential Districts", of the Zoning Code of the Codified Ordinances of the City of Richmond Heights is hereby amended to hereafter read as follows:

| 1173.04 Dimensional Standards for Nonresidential Districts* | | | | | | | | | | | |
|--|-----------------------------|-----------------------------------|-------------------------------------|-------------------------|-----------|-----------------------------|------|------------|-------------|----------------------------------|-----------------------------------|
| Zoning District | Minimum Lot Area (acres) | Minimum Area for District (acres) | Minimum Lot Width & Frontage (feet) | Maximum Building Height | | Minimum Yard Setback (feet) | | | | Minimum Floor Area (square feet) | Maximum Lot Coverage (percentage) |
| | | | | (feet) | (stories) | Front | Rear | Least Side | Total Sides | | |
| O-S | 2.0 | | 150 | 30 | 2 | 75 | (i) | (i) | (i) | | |
| <i>NOTE: Office buildings in the O-S District may be constructed to a height of 36 feet and 3 stories subject to a conditional use permit.</i> | | | | | | | | | | | |
| B-1 | 0.4 | 10 | 150 | 20 | 1 | 75 | (i) | (i) | (i) | | |
| B-2 | 15 | 25 | 800 | 60 | 3 | 200 | 200 | 200 | | | |
| I-1 | 1.0 | 10 | 150 | 45 | 4 | 75 | (j) | (j) | | | |
| | Corner Lot in I-1 District: | | | | | | | | | | |
| | 1.25 | 10 | 200 | 45 | 4 | 75 | (j) | (j) | | | |
| I-2 | 1.0 | 10 | 150 | (l) | (l) | 75 | (j) | (j) | | | |
| | Corner Lot in I-2 District: | | | | | | | | | | |
| | 1.25 | 10 | 200 | (l) | (l) | 75 | (j) | (j) | | | |
| <i>* See Schedule of Regulations' Notes, Section 1173.05.</i> | | | | | | | | | | | |

Section 6: Existing Section 1173.04, "Nonresidential Districts", of the Zoning Code of the Codified Ordinances of the City is hereby repealed.

Section 7: Existing Subsection 1173.05(i) of Section 1173.05, "Schedule of Regulations' Notes", of the Zoning Code of the Codified Ordinances of the City of Richmond Heights, is hereby amended to hereafter read as follows:

1173.05 SCHEDULE OF REGULATION'S NOTES.

- (i) Side and rear yards shall be:
 - (1) At least fifteen (15) feet where the lot line abuts a nonresidential district or a multifamily district;
 - (2) At least fifty (50) feet where the lot line abuts a single-family residential district;
 - (3) Provided that where a lot line abuts a single-family residential district, a yard of not less than twenty (20) feet may be permitted, provided that the site development complies with the following:
 - A. Site plan approved by Planning Commission and City Council.
 - B. Masonry wall, not less than six (6) feet in height.

- C. Minimum of one (1) tree and three (3) shrubs per forty (40) feet of common lot line.
- D. No building, parking, storage, or other use of the yard.
- E. No operable windows or doors on side of building facing lot line, except emergency doors required by building or fire codes.
- F. Roof slope at least 3:12 on of roof side facing residential district.
- G. Side walls facing residential district shall be conventional residential material such as brick, shingle, or horizontal siding approved in site plan.

* * *

Section 8: Existing Subsection 1173.05(i) of the Codified Ordinances of the City is hereby repealed.

Section 9: Existing Section 1177.02, "Establishment of Regulations", of Chapter 1177, "Walls, Landscaping and Ecological Preservation", of the Zoning Code of the Codified Ordinances of the City of Richmond Heights is hereby amended to add new subsections (d), (e) and (f) to read as follows:

1177.02 ESTABLISHMENT OF REGULATIONS.

* * *

- (d) On every lot in the O-S Office-Service District and B-1 Local Business District, a landscaped yard shall be constructed and maintained abutting the public right-of-way, except where interrupted by approved points of vehicular access, and shall meet the following requirements:
 - (1) The yard shall be at least twenty (20) feet deep, measured perpendicular to the right-of-way;
 - (2) Wherever parking is located in the yard abutting the public right-of-way, an earth mound, masonry wall, natural rocks, or a combination thereof shall be constructed to a height of at least three (3) feet above street grade with location and orientation which screens the view of parked vehicles.
 - (3) At least one (1) tree and three (3) shrubs shall be installed for each twenty (20) feet of frontage on the right-of-way; and
 - (4) The landscape plan shall be submitted to the Planning Commission for review and approval. The Commission may approve variations to the above requirements for purposes of safety or practicality.
- (e) The following standards shall apply in the B-1 District:
 - (1) At least twenty-five percent (25%) of any required front yard shall be landscaped.
 - (2) This landscaping requirement is necessary to maintain the transitional character of the area that this District is intended to preserve.
- (f) The following standards shall apply in the B-2 District:
 - (1) Not less than five percent (5%) of the site, exclusive of buildings, shall be landscaped.
 - (2) This requirement is necessary to provide for the safety and welfare of pedestrians in large parking areas and to provide for effective traffic control regulations.

Section 9: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 10: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council