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Chapter Eleven passed by the Council of the City of Rocky River, through Ordinance 104-89, passed March 12, 1990

CODIFIED ORDINANCES OF ROCKY RIVER

PART ELEVEN - DEVELOPMENT CODE

TITLE ONE - Planning

Chap. 1101. Charter Provisions.

Chap. 1103. Planning and Reserving Land for Public Use.

CHAPTER 1101 Charter Provisions

EDITOR'S NOTE: This Chapter has been established to provide a place for cross references and to repeat the City Charter provisions relative to planning and zoning, which provisions may only be amended by the electors. Sections referred to are numbered exactly as in the Charter.

CROSS REFERENCES

Design and Construction Board of Review - see DEV. Ch. 1173

Board of Zoning and Building Appeals - see DEV. Ch. 1177

Zoning amendments - see DEV. Ch. 1181

Department of Community Development - see DEV. Ch. 1183

ARTICLE III - THE COUNCIL

SECTION 13. ENACTMENT OF ZONING ORDINANCES.

The Council shall provide by ordinance for a procedure for the adoption of and amendments to any zoning ordinance and the maps and regulations relating thereto; provided, however, that the procedure established by ordinance must include:

- (1) A provision for public hearing on and prior to any such adoption or amendment.
- (2) A provision for notice of the time and place of such public hearing by publishing notice of such hearing once a week and on the same day of each week for two (2) consecutive weeks in a newspaper determined by Council to be of general circulation within the City.
- (3) A provision that if such adoption or amendment intends to rezone or redistrict twenty (20) or less parcels of land as listed on the then current tax list and duplicate, then written notice of the time and place of the hearing shall be mailed by the Clerk of Council by certified mail at least twenty (20) days prior to the date of the public hearing to the owners of property within, abutting on and directly across the street from the parcel or parcels to be rezoned or redistricted and in addition,

to the owners of property which is contiguous to (touches upon) any of the aforesaid property which abuts on or is directly across the street from the parcel or parcels to be rezoned or redistricted, to the addresses of such owners as such addresses appear on the County Auditor's then current tax list or the County Treasurer's mailing list. The failure to substantially comply with the foregoing public hearing and notice requirements, when established by ordinance of Council, shall invalidate any ordinance, map or regulation which may be adopted; provided, however, if no contest by litigation shall be filed raising the failure to comply with the foregoing public hearing and notice requirements within thirty (30) days following the effective date of such ordinance, map or regulation, then such ordinance, map or regulation shall be valid as if there had been full compliance with the foregoing requirements of public hearing and notice. Until the completion of such thirty (30) day period, the Clerk of Council shall retain for public inspection all certified mail receipts which pertain to such ordinance, map or regulation. Failure of delivery of the certified mail notice shall not invalidate any ordinance, map or regulation which may be adopted. The passage as an emergency measure of any ordinance effecting a change in zoning or districting is prohibited.
(Amended 11-7-72.)

SECTION 14. ACTION ON MAPPED STREETS.

When an application for a building permit involving an infringement on the mapped streets plan is submitted to Council, Council, within ninety (90) days of the date of submission, must take one of the following actions:

- (1) Approve the issuance of the building permit.
- (2) Acquire the right of way involved by purchase.
- (3) Initiate appropriation proceedings for the right of way involved.

(Amended 11-7-72.)

SECTION 15. LEGISLATIVE PROCEDURE.

(a) All legislative action shall be by ordinance, resolution or motion.

(b) Each proposed ordinance or resolution shall be introduced in written or printed form and shall contain only one subject which shall be clearly expressed in its title, provided, however, that general appropriation ordinances may contain the various subjects and accounts for which moneys are appropriated.

(c) The vote on the question of passage of each ordinance and resolution shall be taken by yeas and nays and entered on the journal and no ordinance or resolution shall be passed without the concurrence of a majority of members of Council.

(d) Unless otherwise provided herein, every ordinance or resolution shall be read at Council meetings on three (3) different days, unless three-fourths (3/4) of all the members of Council vote to dispense with this rule; provided, however, any ordinance or resolution effecting a change in zoning shall be read at Council meetings on three (3) different days without exception. The reading of an ordinance or resolution shall be by title only, provided that an ordinance or resolution shall be read in full on its first reading if requested by any member of Council and shall be read in full on its second or third reading if requested by at least two (2) members of Council.

(e) No ordinance or resolution, or any section thereof, shall be revived or amended, unless the new ordinance or resolution contains the entire ordinance, resolution or section as revived or amended and the ordinance, resolution or section so amended shall be repealed.

(f) The Council shall cause a journal of its proceedings to be kept which journal shall be a public record.

(g) Council may adopt rules, regulations and bylaws not inconsistent with this Charter, governing its own proceedings and all other matters pertaining to the exercise of its power and the performance of its duties.

(h) All ordinances, resolutions, statements, orders, proclamations and reports required by law, this Charter or ordinance to be published, shall be published by promptly posting a copy thereof for a period of not less than thirty (30) days on a bulletin board in the lobby of the City Hall. Council may by ordinance provide for additional methods of publication of any of the foregoing. (Amended 11-7-78.)

ARTICLE VI - BOARDS AND COMMISSIONS

SECTION 2. BOARD OF ZONING AND BUILDING APPEALS.

(a) Organization. The Board of Zoning and Building Appeals shall consist of five (5) members, appointed for respective terms of five (5) years, at least three (3) of whom shall be architects or professional engineers duly licensed or registered by the State of Ohio to practice their profession.

(b) Powers and Duties. The Board of Zoning and Building Appeals shall:

- (1) Hear and decide appeals made for exceptions to and variances in, the application of resolutions, ordinances, regulations, measures and orders of administrative officials or agencies governing zoning and building in the City, as may be required to afford justice and avoid unreasonable hardship, subject to such procedures as shall be established by Council and subject further to such reasonable standards as shall be prescribed by Council, including, but not limited to, the existence of practical difficulties or unnecessary hardships in the strict interpretation of the aforesaid ordinances, resolutions, regulations, measures or orders, provided that the granting of such exception or variance will be in harmony with the general purpose and intent thereof.
- (2) Hear and decide appeals from, and to review upon motion of any member of the Board, any order, requirement, decision or determination of the Department of Public Safety-Service or of any other administrative official or agency of the City relating to any building or structure or appurtenance connected thereto in the City of Rocky River. (Amended 11-7-72)

SECTION 3. PLANNING COMMISSION.

(a) Organization. The Planning Commission shall consist of five (5) voting members. One (1) voting member shall be the Mayor or a representative appointed by him for a period not exceeding one (1) year and four (4) voting members shall be appointed by the Mayor to respective terms of four (4) years each.

(b) Powers and Duties. The Planning Commission shall be responsible for the long range planning of the City so as to insure its orderly and harmonious development. The Commission shall act as the platting commissioners of the City, and as such shall provide regulations with respect to the platting of lands within the City so as to secure their harmonious development, provide for the coordination of streets and other public ways with the comprehensive plan and provide for open spaces for traffic, access for fire fighting apparatus, recreation, light and air, and for the avoidance of congestion of population. It shall make such regulations as it deems necessary as to the manner in which streets and other ways shall be graded and improved and the manner in which and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed, and in addition may establish any other condition precedent to the approval of a proposed plat.

The Commission shall make plans and maps of the whole or any portion of the City and of any land outside the City which, in the opinion of the Commission, bears a relation to the planning of the City, and make changes in, additions to, and estimates of such plans or maps when it deems the same advisable. A comprehensive general plan to be known as the master plan shall be

prepared. It shall provide for the overall development of the entire City. This master plan shall be reviewed periodically and revised as necessary giving due consideration to those areas requiring redevelopment or urban renewal. Consistent with the master plan it may prepare a mapped streets plan together with necessary maps or plats showing the surveyed lines of all proposed improvements. It shall have such powers as may be conferred upon it by ordinance of the Council concerning the plan, design, location, removal, relocation and alteration of any public building or structure or those located on public streets or property, the location, relocation, widening, extension and vacation of streets, parkways, playgrounds and other public places, the zoning and rezoning of the City for any lawful purpose, and such other powers as may now or hereafter be conferred upon it by ordinance of the Council or by the general laws of the State of Ohio to the extent not inconsistent with this Charter or such ordinances.

The Commission shall review the comprehensive plan periodically and shall refer to Council with its recommendations any revisions or amendments thereto. No comprehensive plan or portions thereof or amendments thereto, shall be adopted by Council until after a public hearing thereon. The comprehensive plan shall serve as a guide to all future actions of the City concerning land use, development regulations, and official maps. At least every five (5) years the Commission shall review the subdivision regulations and zoning ordinances, texts, maps and recommend such revisions and amendments as in its judgment are desirable.

The Commission shall recommend to the appropriate public authorities and private agencies such programs it deems desirable for the development and improvement of the City. It shall refer to Council with its recommendations any application for a building permit which involves infringement upon the mapped streets plan. Subject to the approval of Council and the availability of funds therefor, the Commission may recommend entering into agreements with the appropriate governmental or private agencies and the employment of consultants necessary or desirable for carrying forward any of its powers and duties. It may recommend appointment of advisory subcommittees composed of private citizens for a limited tenure to work with the Commission for the support and promotion of public projects or civic objectives.

All plans, recommendations and regulations made by the Commission pursuant to this division (b) shall be submitted to Council for adoption before the same shall become effective for any purpose. The Commission shall have such other duties and powers as may from time to time be conferred upon it by ordinance of Council or by the general laws of the State of Ohio to the extent not inconsistent with this Charter or such ordinances.

(c) Mandatory Referral. No public building or structure, street, boulevard, parkway, park, playground, public ground, river front, harbor, dock, wharf, bridge, viaduct, tunnel, or other public way, ground, works or utility whether publicly or privately owned or a part thereof shall be constructed or authorized to be constructed in the City nor shall any public street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, nor shall any street, avenue, parkway, boulevard or alley be widened, narrowed, relocated, vacated, or its use changed, or any ordinance referring to zoning or other regulations controlling the use or development of land be passed, unless and until the matter shall have been submitted to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall be acted upon by it within sixty (60) days from the date of referral unless a longer time be allowed by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. If any provision of such ordinance, resolution or order is disapproved by formal action of the Planning Commission, the adoption of such ordinance, resolution or order shall require a two-thirds (2/3) affirmative vote of all members of the Council. (Amended 11-7-72.)

SECTION 4. PARK AND RECREATION COMMISSION.

(a) Organization. The Park and Recreation Commission shall consist of five (5) members, to be appointed as herein provided:

- (1) One (1) of the members shall be a member of the Board of Education of the Rocky River City School District to be appointed by such Board of Education. The original appointment of such member shall be for a term expiring December 31, 1975. Subsequent appointments of such member shall be for a term of two (2) years.
- (2) One (1) of the members shall be a member of the City Council to be appointed by such Council. The original appointment of such member shall be for a term expiring December 31, 1975. Subsequent appointments of such member shall be for a term of two (2) years.
- (3) Three (3) of the members shall be qualified electors of the City not holding other office, appointment or employment in the government of the City or of the School District. One (1) such member shall be appointed by the Board of Education of Rocky River City School District and one (1) such member shall be appointed by the Mayor. The final such member shall be appointed by the other four (4) members and shall require the concurrence of at least three (3) of those four (4) members. The original member appointed by the Board of Education shall serve for a term expiring December 31, 1976 and the original member appointed by the Mayor shall serve for a term expiring

December 31, 1977. The original member selected by the other Commission members shall serve for a term expiring December 31, 1978. Subsequent appointments of such three (3) members shall be for terms of five (5) years each.

- (4) Each appointing authority shall notify the Clerk of Council in writing of the name and address of its nominee and such appointment shall become effective upon delivery of said notice.

(b) Vacancies. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for any original appointment. If a vacancy is not filled by the appropriate appointing authority within thirty (30) days, then such vacancy shall be filled by the other appointive authority as follows:

- (1) Vacancy in the Board of Education membership or in the membership to be appointed by the Board: next appointing authority shall be the Mayor for a period of thirty (30) days and then the City Council.
- (2) Vacancy in the City Council membership: next appointing authority shall be the Mayor for a period of thirty (30) days and then the Board of Education.
- (3) Vacancy in the membership to be appointed by the Mayor: next appointing authority shall be the City Council for a period of thirty (30) days and then the Board of Education.
- (4) Vacancy in the membership to be appointed by the other Commission members: next appointing authority shall be the City Council for a period of thirty (30) days and then the Mayor.
- (5) The original appointments to the Commission by the Board of Education, City Council and the Mayor shall be made no later than December 1, 1974, or within thirty (30) days after the final results of the vote on this amendment have been determined, whichever date is the later. The original appointment of the Commission-selected member shall be made no later than December 31, 1974, or within thirty (30) days after the fourth member has been selected, whichever date is the later. Failure to exercise an original power of appointment within the time herein specified shall make the above provisions for filling vacancies operative immediately and the next successive appointing authority shall proceed without further delay.

(c) Powers and Duties.

- (1) The Commission shall plan, organize and establish policies to provide, within the limitation of available funds, a year-round recreation and leisure time program for citizens of all ages. Such policies shall be administered by the Director of Recreation under the direction and supervision of the Commission.
- (2) The Commission shall make recommendations to the Mayor and Council concerning the nature, function, use, utilization, maintenance, beautification, control and regulation of parks, and the acquisition of additional parks and the sale or other alienation of all or part of any park. The Commission shall make recommendations to the Board of Education, Mayor, and Council concerning the development, maintenance and operation of playgrounds and recreational facilities of the City and the Board of Education.
- (3) The Commission shall have the following specific duties and powers:
 - (i) To review and recommend to the Mayor, on or before the first day of June each year, a proposed line item budget, together with a projected recreation program, for the ensuing fiscal year. Such budget shall cover all recreation and leisure time activities and programs, including adult education, but shall not include the operation of the City's outdoor swimming pool and indoor ice rink facility unless the Council shall by ordinance place such facility within the operational jurisdiction of the Commission.
 - (ii) To establish all fees and charges for participation in the various activities and programs within the Commission's operational jurisdiction.
 - (iii) To assist organized groups conducting recreation and leisure time activities and programs and to appoint such citizen committees as the Commission deems necessary.
- (4) The Commission shall have such other powers and duties as may be conferred upon it by ordinance.

(d) Director of Recreation. There is hereby created the position of Director of Recreation whose salary shall be fixed by the City Council. The Director of Recreation shall be appointed by and serve at the pleasure of the Mayor. The Mayor shall notify the Chairman of the Park and Recreation Commission in writing of his appointment or removal of said Director and the action of the Mayor in each instance shall become effective on the fifteenth (15th) day after the

delivery of said notice unless the Commission by an affirmative vote of at least three (3) of its members disapproves such action.

(e) Mandatory Referral. No ordinance or resolution concerning the nature, function, use, utilization, maintenance, beautification, control and regulation of dedicated parks as provided for in Article III, Section 20 hereof shall be passed, unless and until the matter shall have been submitted to the Park and Recreation Commission for report and recommendation. Any matter so referred to the Park and Recreation Commission shall be acted upon by it within sixty (60) days from the date of referral unless a longer time be allowed by Council. If the Park and Recreation Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. If any provision of such ordinance or resolution is disapproved by formal action of the Park and Recreation Commission, the adoption of such ordinance or resolution shall require a two-thirds (2/3) affirmative vote of all the members of Council.
(Amended 11-5-74.)

SECTION 5. DESIGN AND CONSTRUCTION BOARD OF REVIEW.

(a) Organization. The Design and Construction Board of Review shall consist of three (3) regular voting members. Two (2) alternate members shall also be appointed. Terms of regular and alternate members shall be for three (3) years each. Each member shall be an architect or engineer duly registered and authorized to practice in the State of Ohio.

No member of the Design and Construction Board of Review shall participate in the review of any work of which said Board member or any partner or professional associate is the author, or in which said Board member or they have any direct or indirect financial interest.

In the event of the temporary absence for any reason of any of the three (3) regular members or disqualification of any regular member to act upon any matter coming before the Board, one or more of the alternate members shall be designated by the chairperson to serve during such temporary absence or disqualification so that at least two (2) members shall be present at any meeting or able to act on any matter.

(b) Powers and Duties. The Design and Construction Board of Review shall have such powers and duties as Council shall provide by ordinance concerning the review and regulation of the design, construction, alteration, moving or razing of buildings in the City for the purpose of maintaining the high character of community development and protecting real estate within the City from the impairment or destruction of value.

(c) Appeals. Appeals from final decisions of the Design and Construction Board of Review shall be made to the Board of Zoning and building Appeals. (Amended 11-7-78.)