

ORDINANCE NO. 2017- 31
INTRODUCED BY: MR. NEWELL

4019

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A PARKING
LEASE WITH THE FEDERATED CHURCH OF CHAGRIN
FALLS TO PROVIDE ADDITIONAL PARKING WITHIN THE
BUSINESS DISTRICTS OF THE VILLAGE AND DECLARING
AN EMERGENCY.**

WHEREAS, the Village desires to enter into a Lease with the Federated Church of Chagrin Falls and the Moderators of Federated Church of Chagrin Falls to provide additional parking to reduce parking congestion within various Business Districts of the Village and for Central Business District employee parking; and

WHEREAS, the Federated Church of Chagrin Falls and the Moderators of the Federated Church of Chagrin Falls have now executed a Lease upon terms acceptable to the Law Director and Mayor.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE
OF CHAGRIN FALLS, STATE OF OHIO:**

SECTION 1. The Mayor is authorized and directed to enter into a Lease with Federated Church of Chagrin Falls and the Moderators of Federated Church of Chagrin Falls pursuant to the terms and conditions as set forth in the Lease Agreement which is attached hereto and incorporated herein as Exhibit "A".

SECTION 2. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

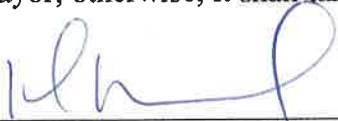
SECTION 3. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 4. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that this Ordinance is necessary to authorize the leasing of parking spaces as soon as possible in order to reduce parking congestion within the Business Districts of the Village and to provide for parking for Central Business District employees; wherefore provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its

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passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: June 12, 2017



Karl Maersch, Council President

Submitted to the Mayor for his approval on this

13 day of June, 2017

Approved by the Mayor this

13 day of June, 2017



Mayor William Tomko

I hereby certify that Ordinance No. 2017- 31 was duly enacted on the 12 day of June, 2017, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council

LEASE

THIS INDENTURE OF LEASE, executed on June 6, 2017, and effective as of June 6, 2017, by and between the Federated Church of Chagrin Falls (f.k.a. Congregational Disciples Churches of Chagrin Falls Federated, Inc.), an Ohio Non-Profit Corporation, and the Moderators of Federated Church of Chagrin Falls, aka Congregational-Disciples Churches of Chagrin Falls Federated, Inc., hereinafter collectively known as LESSOR and the VILLAGE OF CHAGRIN FALLS, OHIO, a municipal corporation, hereinafter known as LESSEE or VILLAGE.

WITNESSETH

PREMISES:

LESSOR and LESSEE mutually agree to lease certain premises situated in the Village of Chagrin Falls, County of Cuyahoga, and State of Ohio, which are more particularly described in Exhibit "A", attached hereto, together with appurtenances, for the purpose of a shared parking lot for permit parking in order to reduce parking congestion within various business districts of the Village and (Central Business District employee parking). As used herein, the term "Premises" refers to the real property above described and to the improvements located thereon from time to time and during the term of this Lease, but subject to the following terms, exclusions and conditions of use.

TERM:

The initial term of this Lease shall be for a period of one (1) year, commencing on the 6th day of June, 2017 and ending on the 6th day of June, 2018. This Lease shall continue in full force and effect from year to year unless either party gives the other written notice of its desire to terminate the Lease at least ninety (90) days prior to any anniversary date thereof.

CONSIDERATION:

In consideration for leasing the Premises, and in consideration of the mutual covenants herein contained, LESSEE agrees that it will:

- (a) Establish and maintain a permit parking system, whereby each car permitted to park, during the hours hereinafter set forth, shall obtain a permit issued by the Village, and pay to LESSOR the sum of Twenty Dollars (\$20.00) for each parking space, per month, for the total number of ten (10) parking spaces, and after ninety (90) days after this Lease commences, the parties shall meet and negotiate in good faith whether additional parking spaces can be made available; the ten (10) parking spaces shall be located as depicted on Exhibit "B" attached hereto and made a part hereof. LESSEE shall regulate and enforce parking on the designated ten (10)

parking spaces from 8:00 A.M. to 8:00 P.M. on Monday through Saturday, and shall not permit any parking on Sundays.

- (b) LESSEE shall provide for enforcement of parking by permit only, removing and/or citing violators.
- (c) Suspension of parking by permit would be permitted by the LESSOR, upon advance notice and consent of LESSEE for special and infrequent events such as funerals, weddings, or similar events.
- (d) Post signs as necessary to designate the parking zones, parking restrictions and time limits. Parking regulations shall be controlled by the Village for the ten (10) parking spaces designated as "VILLAGE Permit Parking Only".
- (e) Remove all accumulated snow that reduce or interfere with the parking spaces provided to the Village, or any way interfere with access to such parking spaces from accumulated snow or from snow moved by mechanical or human means as necessary to the Premises, including the areas reserved for employees of LESSOR as shown on Exhibit "B".
- (f) Provide annually, and maintain, all striping, which shall be in a different color, for those parking spaces reserved for the Village, on the surface of the parking lot as shown on Exhibit "B", including those parking spaces reserved for the employees of the LESSOR as shown on Exhibit "B".
- (g) Make all minor repairs to the Premises, which shall include all areas of the LESSOR'S parking lot limited to crack filling and patching, and maintain such portions of the Premises adjacent to the LESSOR'S parking lot area as depicted on Exhibit "B", such as driveways, which would otherwise be required to be maintained by LESSOR, including minor maintenance and cleaning, and cleaning of catch basins. Any major patching or resurfacing or other capital expenditure for the Premises shall be at the sole and complete expense of the LESSOR who shall maintain the Premises in good condition to the extent LESSEE is not so required.
- (h) Provide parking enforcement patrols for the Premises on a daily basis.

LESSOR agrees that it will:

- (a) Cause resurfacing and major repairs to the Premises at the LESSOR'S sole cost and complete expense.

ASSIGNMENT AND SUBLETTING BY THE LESSEE:

Lessee shall not assign this Lease or sublet any portion of the Premises without the express and prior written consent of the Lessor. Any such assignment or subletting without the express written consent of the Lessor shall be void and, at the sole option of the Lessor, may cause a termination of this Lease.

WARRANTIES OF TITLE AND QUIET POSSESSION

LESSOR covenants that it is well seized of the Premises in fee simple and has full right to enter into this Lease and that LESSEE shall have quiet and peaceful possession of the Premises during the term hereof.

INSURANCE:

Lessee, at Lessee's sole cost and expense, shall provide general public liability insurance, including coverage for medical bills, bodily injury and property damage, insuring the Lessee against accidents which occur on the Premises, with minimum coverage amounts, as follows: \$1,000,000.00 for each occurrence and \$ 3,000,000.00 in the aggregate.

Lessor shall, in the event there is no additional cost to LESSOR, add the Village as an additional insured on its general liability insurance which insures the LESSOR against incidents that occur on the Premises, in such amounts as determined by LESSOR.

UTILITIES:

LESSOR represents that the only utility expense for the subject Premises is electricity, which shall be the LESSOR'S responsibility, to the extent set forth herein.

NOTICES:

All notices, demands or other writings in this Lease provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other shall be deemed to have been fully given or made or sent when made in writing and deposited in the U.S. mail, registered and postage prepaid and addressed as follows:

TO LESSOR:

Congregational Disciples Churches of Chagrin Falls Federated, Inc.

Attn: Amy Eugene

76 Bell St. Chagrin Falls OH 44024

E-mail: aeugene@fedchurch.org

Phone Number: 440-247-6490

TO LESSEE:

VILLAGE OF CHAGRIN FALLS

Attn: Chief Administrative Officer

21 W. Washington St.

Chagrin Falls OH 44022

E-mail: ben@chagrin-falls.org

Phone Number: (440) 247-5050

The address to which any notice, demand or other writing will be given may be changed by written notice given by such party as above provided.

TAXES:

LESSOR shall pay all taxes assessed and levied against the Premises by the state, village and county or other municipal taxing authorities. LESSOR shall pay all taxes that may be assessed and levied on the currently existing and future improvements by the state, village and county or other municipal corporation during the entire term of this Lease. Furthermore, during the entire term of this Lease, LESSOR shall pay all special or local assessments that may be levied against the property by reason of improvements made thereon or on the Street or sidewalks surrounding the property. LESSOR reserves the right to contest any taxes or assessments or the amount thereof.

EMINENT DOMAIN:

If the Premises, or any part thereof which materially affects Lessee's use of same, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be refunded to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof.

ENFORCEMENT:

LESSEE may install control measures at its discretion and enforce the parking limitations by ordinances governing the same, including the amount of penalties.

ARRANGEMENT OF PARKING AND RESERVATION OF LOADING/UNLOADING:

LESSOR and LESSEE have determined, on EXHIBIT "B" attached hereto the location of the permit parking, the LESSOR employee parking, and the areas where unobstructed loading and unloading for the buildings located on LESSOR'S property are to be accessible at all times and LESSEE shall indicate reservation of the loading/unloading zone through appropriate signs and enforcement.

SUCCESSORS AND ASSIGNS:

This Lease is binding upon, and inures to the benefit of, the respective successors and assigns in interest of the parties. This Lease shall be binding on the future owners of the Premises, and LESSOR agrees, prior to entering into any contract for sale of the Premises to notify the prospective purchaser of the existence of this Lease and provide a copy to such prospective purchaser prior to execution of any purchase agreement, and any deed conveying title to the Premises to the grantee shall refer to this Lease as an exception to title.

MODIFICATION:

This Lease, together with any written agreements which shall have been executed simultaneously herewith, contains the entire agreement and understanding between the parties.

There are no oral understandings, terms or conditions and neither party has relied upon any representations expressed or implied not contained in this Lease or the simultaneous writings heretofore referred to. All prior understandings, terms or conditions are deemed merged in this Lease. This Lease cannot be changed or supplemented orally, but only by agreement in writing and signed by the party against whom enforcement of any waiver or change, modification or discharge is sought.

MEMORANDUM OF LEASE:

The parties hereto agree that a memorandum of this Lease may be executed and recorded at LESSEE'S expense in lieu of recording the entire Lease.

CAPTIONS:

The captions appearing under the section designation of this Lease are for the convenience and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

QUIET ENJOYMENT:

LESSOR represents that it has the full right and power to execute this Lease and to grant the estate leased herein and that LESSEE, upon the performance of all other terms, conditions and covenants herein contained, shall have, hold and peaceably enjoy the Premises during the lease term subject to all of the terms, covenants and conditions of this Lease.

DEFAULT CLAUSE:

In the event LESSEE is in default of any of the terms or obligations of the Lease, including timely payment of the considerations set forth in this Lease, LESSOR shall first give Lessee notice with a period of at least thirty (30) days to cure such breach or violation, failing which the LESSOR may then pursue all rights and remedies available at law and in equity, including rights to terminate this Lease or retake possession of the Premises without termination.

GOVERNING LAW:

This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Ohio in which the property is located. The venue and jurisdiction for any legal proceeding to enforce this Lease shall be brought in the state and federal courts for Cuyahoga County, Ohio.

SUBORDINATION:

At LESSOR'S request, this Lease shall be subordinate to any future mortgage granted by LESSOR which from time to time may encumber all or a part of the Premises; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future mortgage covering the Premises, LESSOR shall obtain for LESSEE'S

benefit a non-disturbance and attornment agreement in a form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE'S right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Lease beyond any applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that if Lender or its successor-in-interest or any purchaser of Lender or its successor's interest (a "Purchaser") acquires an ownership interest in the Premises, Lender or such successor-in-interest or Purchaser will honor all of the terms of this Lease and fulfill Lessor's obligations under the Lease. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or as participant and upon all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (i) confirms that the Lease is subordinate to the mortgage in favor of Lender, (ii) agrees to attorn to Lender, if Lender becomes the owner of the Premises, and (iii) agrees to accept a cure by Lender of any of LESSOR'S defaults, provided such cure is completed within the deadline applicable to LESSOR.

Approval of the terms and conditions contained in this Lease are subject to approval by the Village Council.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have set their hands this 6th day of June, 20 17.

LESSOR:

FEDERATED CHURCH OF CHAGRIN FALLS, OHIO, AN OHIO NON-PROFIT CORPORATION

By: 
Its: MODERATOR

THE MODERATOR OF CHURCH COUNCIL OF FEDERATED CHURCH OF CHAGRIN FALLS, OHIO, FKA THE CONGREGATIONAL DISCIPLE CHURCH OF CHAGRIN FALLS FEDERATED, AKA CONGREGATIONAL-DISCIPLES CHURCHES OF CHAGRIN FALLS FEDERATED, INC.

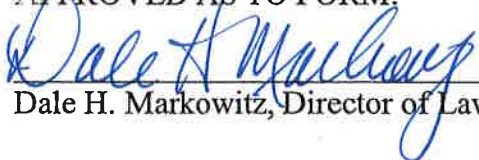
By: 
Its: SENIOR DIRECTOR OF OPERATIONS

LESSEE:

VILLAGE OF CHAGRIN FALLS

By: 
Mayor William Tomko

APPROVED AS TO FORM:


Dale H. Markowitz, Director of Law

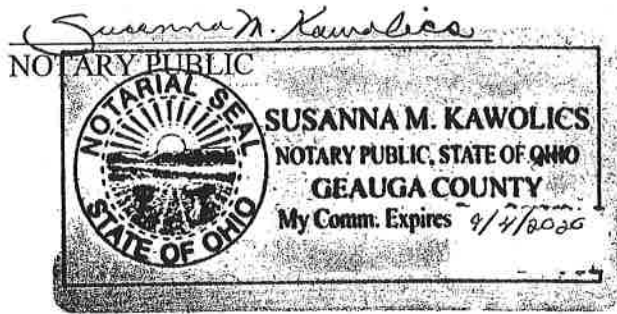
State of Ohio

SS:

County of Cuyahoga

Before me, a Notary Public, in and for said County and State, personally appeared Robin Harbage by Federated Church, its Moderator, who acknowledged that he/she did sign the foregoing instrument and the same is his/her free act and deed on behalf of the Congregational Disciples Churches of Chagrin Falls Federated, Inc., an Ohio Non-Profit Corporation, and personally.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 6th day of June, 2017.



State of Ohio

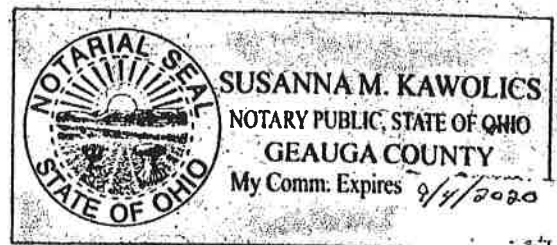
SS:

County of Cuyahoga

Before me, a Notary Public, in and for said County and State, personally appeared Amy Eugene by Senior Director of Operations, its S D O, who acknowledged that he/she did sign the foregoing instrument and the same is his/her free act and deed on behalf of the Trustees of the Congregational Disciple Church of Chagrin Falls Federated, aka Congregational-Disciples Churches of Chagrin Falls Federated, Inc. and personally.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 6th day of June, 2017.

Susanna M. Kawolics
 NOTARY PUBLIC



State of Ohio

SS:

County of Cuyahoga

Before me, a Notary Public, in and for said County and State, personally appeared the Village of Chagrin Falls by William Tomko, its Mayor, who acknowledged that he did sign the foregoing instrument and the same is his free act and deed on behalf of the Village of Chagrin Falls and personally.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 13 day of June, 2017.

Elizabeth L. DeBaggis
NOTARY PUBLIC

ELIZABETH L. DEBAGGIS
Notary Public - State of Ohio
Recorded in Cuyahoga County
My Commission Expires April 25, 2021

EXHIBIT "A"

The existing parking spaces available on Parcel Nos. 932-07-009 and as more particularly described below.

PARCEL 1 932-07-009, Part of

Situated in the Village of Chagrin Falls, County of Cuyahoga and State of Ohio, and known as Lot No. 88 in Gardner and Hallock's Allotment in said village, and bounded and described as follows:

Commencing on the line of the road sixty-eight (68) feet front the corner of said lot;

Thence running southeasterly parallel with the West line of said lot and along the Easterly line of land belonging to J.T. Goodman, twelve (12) rods;

Thence Easterly parallel with the said road eight (8) rods;

Thence Northwesterly parallel with the West line twelve (12) rods to the road;

Thence Westerly along the line of said road to the place of beginning, but excluding from the above boundaries, a strip of land fifty (50) feet wide and twelve (12) rods long on the West side formerly belonging to one Bartlett, and in the same land deeded to the grantors by James E. Hubbell and wife, December 1, 1874, and recorded in Volume 237, Page 539, Cuyahoga County Records.

PARCEL 2 932-07-009, Part of

Situated in the Village of Chagrin Falls, County of Cuyahoga and State of Ohio, and being part of Lot No. 88 in Gardner and Hallock's Allotment in said village, and beginning in the center of Bell Street (formerly Front Street), at the Northwesterly corner of a lot of land deeded by Angie A. Carter to John H. Ober, which deed was recorded September 29, 1875, in Volume 252, Page 234, of the Records of Deeds of Cuyahoga County;

Thence Easterly along the center line of Bell Street, ten (10) feet;

Thence Southerly on a line parallel with the Westerly line of the parcel of land deeded by said Carter to John H. Ober, to the Southerly border of said Ober's land;

Thence Westerly on the Southerly border of said Ober's land to the Southwesterly corner thereof;

Thence Northerly along the Westerly line of said Ober's land to the place of beginning.

EXHIBIT "B"

