APPENDIX A

CABLE TELEVISION FRANCHISE ORDINANCE[1]

AN ORDINANCE GRANTING A FRANCHISE TO TELECABLE OF CLEVELAND, INC., ITS SUCCESSORS AND ASSIGNS, TO OPERATE, MAINTAIN, AND CARRY ON THE BUSINESS OF TRANSMITTING TELEVISION, VIDEO, AND/OR AUDIO SIGNALS TO PERSONS, ASSOCIATIONS, PARTNERSHIPS, AND CORPORATIONS IN THE CITY OF CLEVELAND, TENNESSEE:

BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF THE CITY OF CLEVELAND AS FOLLOWS:

Section1. Definitions.

For the purpose of this Franchise, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

a. "State" is the State of Tennessee.

b. "City" is the City of Cleveland, Tennessee.

c. "Company" is TeleCable of Cleveland, Inc., a Tennessee Corporation.

d. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

e. "Cable Communications System," "Cable Televison System" or "CATV System," shall mean a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the City.

f. "Gross receipts" means all receipts received directly or indirectly by Grantee derived from the operation of the Cable System to

[1]This ordinance was passed by the city council on January 19, 1990.

provide Cable Services (as defined in 47 U.S.C. 522(6)). Gross Receipts shall specifically include any receipts derived from the operation of the Cable System to provide Cable Services received by Grantee's affiliates, subsidiaries, parents, or any person or entity in which Grantee has financial interest, including any receipts which have the effect of avoiding the payment of compensation that would otherwise be payable as a percentage of Gross Receipts to the City for the Franchise granted herein. Gross Receipts shall include franchise fees collected from subscribers.

Gross receipts shall not include receipts received from the provision of Internet Service over the cable system until such time as the FCC rules that such service shall be designated a Cable Service and included in Gross Receipts for the purpose of calculating franchise fees. Further, Gross Receipts shall not include:

(1) Any taxes, fees or assessment collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC User Fee;

(2) Un-recovered bad debt; and

(3) Any PEG or li-Net amounts recovered from Subscribers.

On or before April 30th of each year of this agreement, Company shall provide City with a detailed summary of gross receipts, by item and type, subject to inclusion in the calculation of franchise fees received during the preceding year, certified by an officer of the Company. The Franchise Fee shall be payable in accordance with the ordinance.

g. "Effective Date" shall mean the day and year of final passage.

h. "Basic Cable Services" shall mean the lowest priced level of service offered by the Company that includes local broadcast stations. (as amended by Ord. of 1/13/03)

Section 2. Grant of Authority.

There is hereby granted by the City to the Company, which is within the power to the City to grant, the non-exclusive right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, City easements and right-of-ways, easements or right-of-ways dedicated for use compatible with cable system operations, public ways and public places now laid out or dedicated, utility easements, maintenance easements, sewage and water easements, ingress and egress easements and all extensions thereof and additions thereto in the City, wires, poles, cables, underground conduits, conductors, and fixtures necessary for the maintenance and operation in the City of a Cable Communications System. The Company

shall have the right in the operation of the system to make attachments to City-owned property at such reasonable rates and upon such terms and conditions as shall from time to time be determined by the City. The rights herein granted shall extend to any area hereafter annexed to the City and Company shall be bound by the same rules and regulations as to such area as are otherwise herein or hereafter provided.

Section 3. Compliance with Laws, Regulations, Ordinances and Practices.

The Company shall, at all times during the life of this Franchise Agreement, be subject to the lawful exercise of the police power of the City and to such reasonable regulations no inconsistent herewith, as the City has or shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in accord with good engineering practices and shall be in full compliance with the National Electrical Safety Code and applicable laws.

Section 4. Company Liability and Indemnification.

a. Company shall save City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand, including costs and attorneys fees, whatsoever, arising out of the negligence of the Company in the construction, operation and maintenance of its system. The Company agrees to maintain and keep in full force and effect at all times during the term of this Franchise Agreement sufficient property damage and personal injury and public liability insurance coverage to protect the City and the Company against any such claims, suits, judgments, executions or demands in a sum of not less than One Million and no/100 Dollars ($1,000,000.00) per person for any one claim, One Million and no/100 Dollars ($1,000,000.00) for any one accident or occurrence, and not less than One Million and no/100 Dollars ($1,000,000.00) for property damage as to any one accident or occurrence. The City shall be named as an additional insured in said policy.

b. Company shall carry Comprehensive Automobile Liability insurance to protect against bodily injury in the amount of One Million and no/100 Dollars ($1,000,000.00) for any one person and One Million and no/100 Dollars ($1,000,000.00) for any one occurrence and One Million and no/100 Dollars ($1,000,000.00) for property damage as to any one accident or occurrence.

c. The Company shall also maintain in full force and effect throughout the duration of this Franchise Agreement sufficient Worker's

Compensation Insurance Coverage to protect adequately and fully its agents and employees as required by law.

d. All Insurance policies and bonds as are required of the Company in this Franchise Agreement shall be written by a company or companies authorized and qualified to do business in the State of Tennessee. Certificates of all coverage required hereunder shall be promptly filed by the Company with the City in the office of the City Clerk and shall be filed within thirty (30) days of the effective date of this Franchise.

Section 5. Conditions of Street Occupancy and System Construction.

a. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the reasonable convenience of property owners who adjoin any of said streets, alley or other public ways or places.

b. In the case of any disturbance of pavement, sidewalks, driveways, or other surfacing, the Company shall, at its own expense and in a manner required by the City, properly replace and/or restore such places so disturbed.

c. In the event that at any time during the period of this Franchise Agreement the City shall lawfully elect to alter or change the location or grade of any street, alley, or other public way, the Company upon reasonable notice by the City shall remove, relay, and relocate its equipment at is own expense.

d. The Company shall not place any fixtures or equipment, and the location by the Company of its lines and equipment shall be in such a manner as to not interfere with the usual travel on said streets, alleys and public ways and the use of the same by gas, electric, telephone, water lines and other public utilities, fixtures and equipment.

e. The Company shall, on the request of the City, temporarily raise or lower its wires to permit the moving of buildings.

f. Nothing in the Franchise Agreement shall grant to the Company any right to City-owned property, nor shall the City be compelled to maintain any of its property any longer than, or in any

fashion other than , in the City's judgment, its own business or needs may require.

g. The City shall not be required to assume any responsibility for the securing of any rights of way or easements, nor shall the City be responsible for securing any permits or agreements with other persons or utilities.

h. Where underground service shall be required for electric power and telephone services, the City may require that underground service be provided by the Company.

Section 6. Franchise Consideration.

The Company shall pay to the City each year a franchise fee sum equal to five percent (5%) of the annual gross receipts up to Two Hundred Thousand Dollars ($200,000.00) per year and five percent (5%) of annual gross receipts in excess of Two Hundred Thousand Dollars ($200,000.00). Franchise fees shall be paid quarterly within 30 days following the end of the calendar quarter. (as amended by Ord. of 1/13/03)

Section 7. Service Standards.

a. The Company shall maintain and operate the system so that there will be no interference with television reception, radio reception, telephone communications ro other installations which are now or may hereafter be installed and in use by the City or any persons in the City, and in such a manner as to prevent radiation from its facilities in excess of the limits specified in applicable rules and regulations of the Federal Communications Commission.

b. The Company shall take all necessary steps so that the system shall maintain at all times:

(1) Use of all-band distribution plan equipment capable of passing the entire VHF television and FM radio spectrum.

(2) Equipment that passes standard color television signals without material degradation and with no appreciable effect on color fidelity and intelligence.

(3) A minimum level of one thousand (1,000) micro-volts at the input terminals of each TV receiver on one line.

(4) A system and all equipment designed and rated for 24-hour per day continuous operation.

(5) A signal-to-noise ratio of not less than forty decibels for broadcast signals received within the station's grade B contour.

(6) A television signal with a hum modulation less than five (5) percent.

(7) Components that have voltage standing wave ratio of 1.4 or less.

(8) An inter-modulation distortion not to exceed minus forty-six decibels.

(9) A plot of gain versus frequency across any six megacycle channel of a flat plus or minus two decibels.

Section 8. Rights of Individuals.

The Company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage. This shall not prohibit the Company from offering promotional discounts and specials from time to time or offering bulk billing discounts to commercial accounts.

Section 9. Local Office.

During the term of this Franchise and any renewal thereof, the Company shall maintain a local (available by phone without long distance charges) business office for the purpose of handling customer inquiries regarding the ordering of service, equipment malfunctions, billing questions and similar matters.

Section 10. Company Rules.

The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business and shall be reasonable necessary to enable the Company to exercise its rights and to perform its obligations under this Franchise Agreement and to assure an uninterrupted service to each and all its customers; provided, however that such

rules, regulations, terms and conditions shall not be in conflict with the provisions hereof.

Section 11. Service to City.

The Company, at its own expense, shall provide and maintain one connection to existing City office buildings, police stations, fire stations, libraries, public schools, and any other public facilities as designated by the City; provided, that the Company shall not be responsible for providing the distribution system within any of such places. Further, no monthly customer service fees shall be charged for one connection of basic service to such places. Such connection shall be provided where service can be provided from the Company's existing distribution plant.

Section 12. Construction Plans.

All new plant extensions and cable plant rebuild shall be constructed for a fifty-four (54) channel capacity.

Section 13. New Developments.

It shall be the policy of the City to reasonably amend this Franchise Agreement upon application of the Company when necessary to enable the Company to take advantage of any developments in the field of transmission of television, radio signals and cable television, and to take advantage of any changes in the Federal Laws or Regulations relating to cable television.

Section 14. Service Area.

The Company shall serve any area within the City where the housing density is twenty-five (25) housing units or more per mile of contiguous cable plant. The Company may enter into cost sharing arrangements to extend cable service to those areas that do not meet the density standard. Areas annexed to the City which meet the density standard shall be served within one (1) year from the date of annexation unless it is not technically feasible.

Section 15. Separability.

In the event any section or part of this Franchise Agreement shall be held invalid, such invalidity shall not affect the remaining sections or portions of this Franchise Agreement. If the terms of this Franchise Agreement should conflict with any laws or regulations now in effect or hereafter adopted by the Federal Communications Commission (or any other governmental agency now existing or to be formed issuing rules and regulations affecting telecommunications), the

State or the United States government, compliance by the Company with such rules shall not cause a forfeiture of this Franchise Agreement.

Section 16. Term.

This Franchise Agreement shall supersede all previous agreements or grants of authority by ordinance, and shall have a term commencing as of the effective date of this Franchise Agreement and ending twenty (20) years from August 19, 1993.

Section 17. Rates.

(1) If during the term of this franchise the Cable Communications Policy Act of 1984 should be amended to permit municipal regulation of basic cable service rates, the City shall have the option, upon proper notice to the Company and an opportunity for the Company to comment, to regulate basic cable service rates.

(2) Between January 1 and February 28 of each year the City Council may determine whether it will assume basic cable service rate regulation authority. If the City Council takes no action to assume rate regulation authority, then basic cable service rates may be changed by the Company by filing with the City a schedule of new basic cable service rates and by notifying its subscribers prior to the rate change.

(3) If the City assumes rate regulation of basic cable service rates then for the remainder of that calendar year basic cable service rates may be changed subject to the following provisions:

(a) Upon a written request by the Company to increase basic cable service rates, the City shall have 60 days within which to render a decision approving, or disapproving the rate change. If such decision is not rendered by a majority vote of the City Council within 60 days of the initial request, such request will be deemed approved.

(b) Further, it will not be necessary for the Company to seek approval of the City to the extent that the basic cable service rate is not increased more than one time in any 12-month period the greater of five percent (5%) or the cumulative increase (calculated from the date of the last basic rate increase) in the Consumer Price Index for All Urban Consumers--the Unites States Average (CPI) published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) Notice of any rate increase made pursuant to paragraph (b) of this section shall be filed with the City Clerk thirty or more days prior to implementation of the rate increase together with all supporting data to justify such an increase.

Section 18. Binding Effect.

This Franchise Agreement is binding on and inures to the benefit of the parties hereto, their successors and assigns, forever.

Section 19. Effective Date.

This Ordinance shall be in force and take effect as provided by law.

APPENDIX B

ORDINANCE NO. 2004-05

GAS FRANCHISE[1]

AN ORDINANCE GRANTING UNTO CHATTANOOGA GAS COMPANY, A SUBSIDIARY OF AGL RESOURCES, INC., A FRANCHISE FOR THE PURPOSE OF OPERATING A SYSTEM OF GAS DISTRIBUTION AND SERVICE WITHIN THE CITY OF CLEVELAND SO AS TO FURNISH GAS SERVICE WITHIN THE CITY TO ITS INHABITANTS FOR DOMESTIC, COMMERCIAL, INDUSTRIAL AND MUNICIPAL GENERAL USE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. This Ordinance shall be know as the "Chattanooga Gas Company Franchise Ordinance."

Section 2. For purposes of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a. City - City of Cleveland, Tennessee.
b. City Manager - The City Manager of the City of Cleveland, Tennessee.
c. Company - Chattanooga Gas Company, a subsidiary of AGL Resources, Inc., a Georgia corporation, the Grantee of rights under this franchise and its lawful successors or assigns.
d. Construction - The installation, re-installation, laying, erection, digging, renewal, repair, replacement, extension and removal of the gas system, or any activity that may be necessary to maintain and operate a gas system.
e. Council - The City Council of the City of Cleveland, Tennessee.
f. Gas System - Any pipe, pipeline, tube, main, duct, conduit, service, fitting, feeder, trap, vent, vault, manhole, meter, gauge, regulator, valve, appliance, attachment, appurtenance, and any other

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[1]This ordinance was accepted by Chattanooga Gas Company on April 2, 2004.

personal property constructed, maintained, or operated by Chattanooga Gas Company as may be necessary to import, transport, distribute and sell gas.

g. Streets - The public streets, highways, avenues, roads, courts, alleys, lanes, ways, bridges, utility easements, sidewalks, parkways, public rights-of-way, or other public places or grounds in the City as they now exist or they may be established at any time during the term of this franchise in the City.

Section 3. That there is hereby granted to the Company a franchise to construct, reconstruct, maintain and operate gas system in, upon, along, and under the streets within the City and to carry on, operate, enlarge and continue the same in said City as the same is now or may hereafter exist, for the purposes of furnishing gas service.

The Company shall also have the right and privilege within the City to manufacture, sell and distribute natural gas and all other products and services, including appliances, which are related thereto. Neither the enactment of this Ordinance nor anything contained herein shall constitute any repeal or modification, expressed or implied, of any other ordinance of the City now in effect, whether codified or not, and the City expressly reserves the right to enact any and all such ordinances respecting the Company and its business as may be authorized by law, provided that any such ordinances shall not abridge the rights and privileges granted to the Company hereunder.

Section 4. That this franchise shall inure to the benefit of the Company, its successors and assigns, and shall exist and remain in effect for a period of twenty (20) years from and after passage of this Ordinance on final reading.

Section 5. That the Company shall not at any time charge in excess of such lawful rates as from time to time may be fixed by the Tennessee Regulatory Authority, or such other duly constituted body as may have power and authority in such matter. That the Company shall comply with all lawful orders of the Tennessee Regulatory Authority, or any other duly constituted body as may have power and authority in such matters respecting rates, the quality of gas, pressure, health measures and other conditions of service.

Section 6. That the Company in constructing or continuing a gas system along, across, under or through any City street, shall comply with all Ordinances of the City and shall take care not to obstruct or injure unnecessarily any such streets, and shall with reasonable diligence restore such streets to as good state of repair and condition as the same were before disturbed by said Company. The Company shall in all respects fully indemnify and save harmless the City from and against all damages, costs, attorneys fees, or other expenses which the City

may incur by reason of such construction. The obligation of indemnity set forth in this section shall also extend to any construction in any street or right-of-way of the City by any property owner pursuant to any contract between said property owner and the Company authorizing the property owner to construct a service line or other gas line from any main of the Company to such property owner's property.

Section 7. That the Company, its successors, or assigns, by the exercise of this franchise, agrees to hold harmless the City on account of any loss, expense, damage, cost, attorneys fees, litigation expenses, or liabilities that may result from Company's operation of its gas system unless such loss, expense, damage, cost, attorneys fees, litigation expenses or liabilities are attributable in whole or part to the negligence of the City, its agents, servants or employees. This right of indemnification shall include all expenses reasonably incurred by the City in defending any claim arising from the Company's operation of its gas system, whether or not the claim has merit.

The company hereby agrees, upon official request of the City, to furnish the City evidence of insurance in such an amount as may be reasonably necessary to protect the City.

Section 8. That the Company shall maintain all service lines to its customers up to and including the meters and shall, when necessary, repair, renew or replace service lines which are the property of the Company.

The Company shall provide service personnel and equipment based in Cleveland and/or Bradley County, Tennessee to respond to customer service calls from locations within the City, and shall provide the local public service agencies, including the City police department, the City fire department, and the 911 Center with the Company's toll-free emergency telephone number and a listing of direct local telephone and pager numbers of local Company agents to contact in the event of an emergency. Company shall have trained personnel available 24 hours a day, 365 days per year, who will promptly respond to emergency calls.

The Company shall make every reasonable effort to furnish an ample and uninterrupted supply of gas to all customers throughout its entire gas system within the City and on any enlargements and extensions thereof within the City. At the time each and every annexation ordinance of the City becomes operative the City shall provide the Company with a copy of its ordinance and its accompanying map precisely describing the annexed territory. The Company shall not unreasonably or arbitrarily refuse to make and extension for the purpose of giving gas service to the City, its inhabitants, institutions and businesses.

Section 9. City and the undersigned warrant and represent that, with the exception of the franchise granted to Company by a previously passed ordinance, which franchise was accepted by Company and City, there is no franchise granted by the City in force or effect, to any other person, firm or corporation, for the distribution and selling of gas, and that, during the term of this Agreement, the City will not enter into any other agreements or grant any other franchise for the distribution and selling of gas. The City reserves the right to grant a similar use of said streets to any person or corporation at any time during the period of this franchise so long as such right is not for the business of conveying and selling gas to others as a public utility. Nothing contained within this Ordinance will prevent the City from exercising its legal rights of eminent domain or from operating its own gas system within the City of Cleveland.

Section 10. That in consideration of the grant of this franchise, the Company shall pay as a franchise fee a sum equivalent to 5% of the gross receipts received from sales of any type of gas to the Company's customers within the environs of the City of Cleveland, which sum shall, in accordance with prevailing state law and the Company's rate tariffs be approved by the Tennessee Regulatory Authority, be directly added to the gas bills of, and collected from, those customers of the Company located within the City of Cleveland. Said fee shall be in addition to any sums due to the City from the Company as an ad valorem tax.

The amount of the franchise fee billed by the Company each quarter shall be paid to the City on or before the 15th day of the month following the end of each quarter. If the Company shall fail to pay the amount due, then the City reserves the right to revoke this franchise if said amount that is due and payable is not paid within a period of sixty (60) days after written notice of such delinquency to the Company.

The City shall have access at all reasonable times to the books of the Company for the purpose of ascertaining and/or auditing the amount of fees due the City. The Company shall furnish the City with an annual report showing the amount of gross revenues from its sale of gas within the City. The franchise fee imposed herein shall be effective from and after the adoption of this Ordinance and acceptance by the Company.

Other than as set forth herein, the Company shall not be required to pay any other fee or compensation of any kind in respect of the subject matter of this Ordinance. Provided, however, that the Company shall be required to pay any pavement permit fees in connection with cutting the City streets.

Section 11. If the Company desires to sell the assets of its gas system located within the City of Cleveland as a stand-alone transaction and not as a sale of its larger gas system, then the Company must offer the City the opportunity to buy those assets located and situated in the City of Cleveland on the same terms as being offered to some other party. The City will have forty-five (45) days to accept the offer and an additional ninety (90) days to close said transaction in the event the City elects to exercise the option to purchase.

In the event the City chooses not to exercise the option to purchase, the City shall continue to have the right to approve any sale, assignment, or transfer that Company may desire and this franchise cannot be sold, assigned, or transferred without the express written consent of the City Council, provided, however, that such consent shall not be reasonably withheld.

In any negotiations between the City and the Company for the purchase of the Company's property by the City, no value shall be placed upon this franchise in arriving at the purchase price to be paid by the City.

Section 12. Any flagrant or continuing violation of the provisions of this Franchise Ordinance by the Company or its successors shall be cause for forfeiture of this franchise agreement, provided that the City shall have given the Company written notification of such violation and allow the Company a reasonable and appropriate time as determined by the City Manager to correct the cited violations.

Section 13. In the event it becomes necessary or expedient for the City to change the course or grade of any highway, street, avenue, road, alley, way, parkway or other public ground in which the Company is maintaining its gas system, then, upon the written request of the City, the Company will remove or change the location or depth of such gas system to conform to the proposed street alteration. It is agreed that Company will, at its own expense, within sixty (60) days after written notice from the City Manager, Company's receipt of final plan approval, and notice to proceed, begin the work of completing any and all things necessary to effect such change in position or location in conformity with such written instruction. Provided, however, that if such request is to accommodate any development by and person or entity other than the City or another governmental body, then the person or entity responsible for such development shall reimburse Company its expenses for such removal or change.

Section 14. After adoption of this Ordinance, should any section, subsection, sentence, provision, clause or phrase of this Ordinance be declared invalid by a court of competent jurisdiction or appropriate regulatory authority, such declaration shall not affect the validity of this Ordinance as a whole or any part

thereof other than the part so declared to be invalid or unconstitutional, it being the intent in adopting this Ordinance that no portion thereof or provision or regulation contained therein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any other portion or provision or regulation.

Section 15. That this Ordinance shall not be operative, as distinguished from its effectiveness, until is has been accepted by the Company. The Company shall have thirty (30) days from the date of the final passage of this Ordinance to file with the City Clerk its unconditional acceptance of the terms and conditions of this Ordinance. The Company shall also furnish the City with a copy of the written approval of the Tennessee Regulatory Authority which shall be filed with this Franchise Ordinance.

Section 16. All rights herein granted and/or authorized shall be subject to and governed by this Ordinance, provided, however, the City Council expressly reserves unto itself all its police power to adopt general ordinances and to take other action necessary to protect and promote the safety and welfare of the general public in relation to the rights now reserved to or in the City of Cleveland under its Charter and to all such rights as are now provided by general law.

Section 17. All ordinances, and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 18. This ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

s/L. Harlen Painter
L. Harlen Painter, City Attorney

s/Tom Rowland
Tom Rowland, Mayor

s/Janice S. Casteel
Janice Casteel, City Clerk

ACCEPTANCE

The within Franchise and its terms and conditions are hereby accepted by Chattanooga Gas Company, a subsidiary of AGL Resources, Inc., on this 2nd day of April, 2004.

CHATTANOOGA GAS COMPANY, A SUBSIDIARY OF AGL RESOURCES, INC.

____
Title:

Attested:

____

APPENDIX C

ZONING ORDINANCE

Cleveland, Tennessee

ZONING AND LAND USE CONTROL

Recommendations

of the

Land Use Select Implementation Committee

and the

Cleveland Municipal Planning Commission

to the

Cleveland City Council

May 1996

(This Appendix C was last revised during Change 17, July 23, 2018. Changed sections are cited with Ordinance number and date.)

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1.0 GENERAL PROVISIONS.

1.1 PURPOSES AND INTENT.

The zoning regulations and districts herein set forth have been made in accordance with a comprehensive plan and to provide for the public health, safety, convenience and general welfare by:

A. Encouraging the most appropriate use of land;

B. Preventing the overcrowding of land;

C. Conserving the value of land and buildings;

D. Minimizing traffic hazards and congestion;

E. Preventing undue concentration of population;

F. Providing for adequate light, air, privacy, and sanitation;

G. Reducing hazards from fire, flood, and other dangers;

H. Assisting in the economic provision, utilization and expansion of all services provided by the public, including but not limited to roads, water, sewer, recreation, schools and emergency services, including fire protection;

I. Enhancing the natural and man-made amenities of the City of Cleveland, Tennessee.

1.2 Applicability and Compliance.

No building shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereafter provided. No land or lot area shall be reduced or diminished that the yard or open spaces shall be smaller than prescribed herein, nor shall the lot area per family be reduced in any manner except in conformity with the regulations hereby established for the district in which such building is located. No yard or open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

1.3 Authorization/legal basis.

This ordinance is established, pursuant to the authority granted by Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, to provide for the establishment of districts within the corporate limits of Cleveland, Tennessee; to regulate within such districts the location, height, bulk, number or stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings, and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

1.4 Interpretations.

In Interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare of the community. It is not intended by this ordinance to interfere with, abrogate or annul any easement, covenant or other agreement between parties. However, where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger open spaces, than are imposed or required by other ordinances, rules, regulations, easements, covenants or agreements, the provisions of this ordinance shall control. If, because of error or omission in the zoning map, any property in the city is not shown as being in a zoning district, the classification of such property shall be R-1 Single-Family, unless changed by an amendment to this article.

1.4.1. Boundaries.

Interpretations regarding boundaries of land use districts shall be made in accordance with the following:

A. Boundaries shown as following or approximately following any street shall be construed as following the centerline of the street.

B. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.

C. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.

D. Boundaries shown as following or approximately following natural features shall be construed as following such features.

E. When the application of the aforementioned rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the board of zoning appeals.

1.4.2 Code Provisions.

In the event that any question arises concerning the application of this ordinance, the planning director shall be responsible for interpretation. Responsibility for interpretation shall be limited to standards, regulations, and requirements of this ordinance, but shall not be construed to include interpretation of any technical codes adopted by reference in this ordinance, nor shall it be construed as overriding the responsibilities given to any commission, board, or official designated in other sections or article of this ordinance.

1.4.3 Conflicts.

Whenever this ordinance, or development plans approved in conformance with this ordinance, are in conflict with other local ordinances, regulations, or laws, the more restrictive ordinance, regulations, or law shall govern and shall be enforced by appropriate local agencies. When plans, approved by the planning commission, contain setback or other features in excess of the minimum zoning ordinance requirements, such features as shown on the approved plan shall govern.

1.4.4 Separability.

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

1.5 Lots of Record.

A Lot of record is defined as any lot or parcel of land in any district which was lawfully formed and confirmed to the lot area and lot width requirements at the time of formation, not adjoining undeveloped land under the same ownership. The deed to the lot must have been recorded at the time of the adoption of this ordinance. A lot of record in an annexed area is a platted lot on the effective date of the annexation. For a lot of record in an area annexed by the City of Cleveland, prevailing deed restrictions shall apply on minor streets only.

A lot of record may be used as a building site even though such lot or parcel fails to meet the minimum requirements for lot area, lot width or both, providing the

development of such lots shall adhere to the requirements of the district in which they are located as closely as possible. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more buildings sites meeting the minimum requirements of the district in which they are located.

1.6 Definitions.

To carry out the provisions of this ordinance, certain words, terms and phrases are to be used and interpreted as defined hereinafter:

A. Words used in the present tense shall include the future tense.

B. Words in the singular shall include the plural, unless the context clearly indicates otherwise.

C. The word "person" includes a firm, partnership or corporation as well as an individual.

D. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

E. The word "used" or "occupied" as applied to land or a building shall be construed to include the words "intended," "arranged," "designed to be used or occupied."

F. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.

G. Words implying the masculine gender shall also include the feminine and neuter.

1.6.0 Terms.

1.6.1 Alley. A Service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

1.6.1.A "Bed and Breakfast" shall mean a "bed and breakfast" establishment or "bed and breakfast homestay" as defined in the Bed and Breakfast Establishment Inspection Act of 1990[1], and regulated by the

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[1]State law reference

(continued...)

Tennessee Department of Health as provided in the aforementioned statute. The terms "boarding home," "guest home," and "tourist home" as used within the zoning ordinance shall have the same meaning as "bed and breakfast." (as added by Ord. #9, Nov. 2000)

1.6.2 Billboard. See Sign, Billboard.

1.6.3 Buffer/buffer strip. A strip of land, usually in permanent vegetation, used to visibly separate one use from another or to shield or block noise, light, or any other nuisance.

1.6.4 Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

1.6.5 Structure, Accessory. A Subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

1.6.6 Building Height. The vertical distance of a building measured from the average elevation of the finished grade to the highest point of the roof.

1.6.7 Building Line. A line parallel to the street line at a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located.

1.6.8 Building Permit. Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure.

1.6.9 Building, Principal. A building in which is conducted the principal use of the lot on which it is located.

1.6.9.A "Car wash" shall mean a building, site, or portion thereof used for washing and cleaning of passenger vehicles, recreational vehicles, and other light duty equipment on a commercial basis. This definition is not intended to include vehicle washing that is incidental to the primary business activity on the site, such as a car dealer's cleaning of vehicles offered for sale. (as added by Ord. #23, Sept. 2002)

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[1](...continued)
Tennessee Code Annotated, title 68, chapter 14, part 5.

1.6.9.B[1] Church means a building maintained or controlled by a religious body primarily for public worship. It includes ancillary uses necessary or closely associated with the primary activity such as religious education classrooms, offices, libraries, nurseries, kitchens, assembly halls, recreational facilities, and similar facilities designed for use by the church's members or attendees. The term church includes similar uses or facilities regardless of religious affiliation, e.g. temple, synagogue, mosque, etc. The term does not include daycare, pre-school, primary school, secondary school, or other uses unless specified by the zoning district description. (as added by Ord. #14, March 2001)

1.6.10 City Engineer. The Cleveland City Engineer or his duly authorized representative.

1.6.11 Conditional Use. A use permitted in a particular zoning district only upon the developer or other applicant showing the board of zoning appeals that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and such use is authorized by the board of zoning appeals. (as amended by Ord. #2005-20, June 2005)

1.6.12 Corner Lot. See Lot, Corner.

1.6.13 The number of families, individuals, dwelling units, or housing structures per unit of land.

1.6.14 Duplex. A structure on a single lot containing two dwelling units.

1.6.15 Dwelling. A structure or portion thereof which is used exclusively for human habitation.

1.6.16 Dwelling, attached. A one-family dwelling attached to one or more one-family dwellings by common vertical walls.

1.6.17 Dwelling, detached. A dwelling which is not attached to any other dwelling by any means.

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[1]The codifier renumbered 1.6.9.B (added by Ord. #14, March 2001 as 1.6.9.A) to maintain alphabetization as terms are added.

1.6.18 Dwelling, manufactured house. A single detached dwelling as defined under the Tennessee Modular Building Act, Tennessee Code Annotated, §§ 68-126-301 et seq., as amended.

1.6.19 Dwelling, multi-family. A building containing more than two dwelling units.

1.6.20 Dwelling, single-family. A building containing one dwelling unit.

1.6.21 Dwelling, townhouse. A one-family dwelling in a row of at least two (2) units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire rated walls, and each unit is located on a fee simple, platted lot. (as amended by Ord. #2013-34, July 2013

1.6.22 Dwelling, two-family. See Duplex.

1.6.23 Dwelling unit. One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of the household.

1.6.24 Flood/flooding. All flood-related terms are as defined in the Cleveland Flood Damage Prevention Reduction Ordinance.

1.6.24A Green space. Land with ground cover consisting of primarily of living vegetative matter such as grass, trees, bushes, shrubs or other living vegetation. Any manmade products within green space, surface or subsurface, shall be ancillary to the vegetation and not substantially interfere with the capacity of the green space to absorb and treat stormwater and to provide other environmental benefits. (as added by Ord. #2009-49, June 2009

1.6.25 Home occupation. Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

1.6.26 Impervious surface. Any material which substantially reduces and/or prevents absorption of stormwater into the ground.

1.6.27 "Junkyard" shall mean any area, lot, land, parcel, building, structure or part thereof used for the storage, collection, processing, purchase, sale, or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery, or inoperable vehicles as

defined in title 13 chapter 2 of the Cleveland Municipal Code, subject to certain exceptions enumerated herein. "Junkyard" shall not include a "recycling center" as defined in Tennessee Code Annotated, title 54, chapter 20, part 1, section 103. "Junkyard" shall not include solid waste disposal facilities registered under Tennessee Code Annotated, title 68, chapter 211, part 1, section 106; except however, "junkyard" shall include the dumping, or filling of land with, dead trees or other vegetative debris, construction or demolition debris, or other waste material without required permits or otherwise in violation of city ordinances. "Junkyard" shall not include materials stored and used as part of a manufacturing process conducted on the same site in a lawful place and manner. Inoperable vehicles as defined in title 13 chapter 2 of the Cleveland Municipal Code shall not, apart from the existence of other junkyard conditions, constitute a junkyard if the inoperable vehicles are stored in compliance with the exceptions described in § 13-204 of the aforementioned title 13. (as amended by Ord. #19, March 2002)

1.6.28 Loading space. An off-street space or berth used for the loading or unloading of commercial vehicles.

1.6.29 Lot. A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

1.6.30 Lot area. The total area within the lot lines of a lot, excluding any street rights-of-way. (See Figure 1)

1.6.31 Lot, corner. A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees. Also corner lot. (See Figure 2)

1.6.32 Lot coverage. That portion of the lot that is covered by buildings and structures, or other impervious surfaces. (See Figure 1)

1.6.33 Lot depth. The distance measured from the front lot line to the rear lot line. (See Figure 2)

FIGURE 1

Setbacks, Lot Lines and Coverage

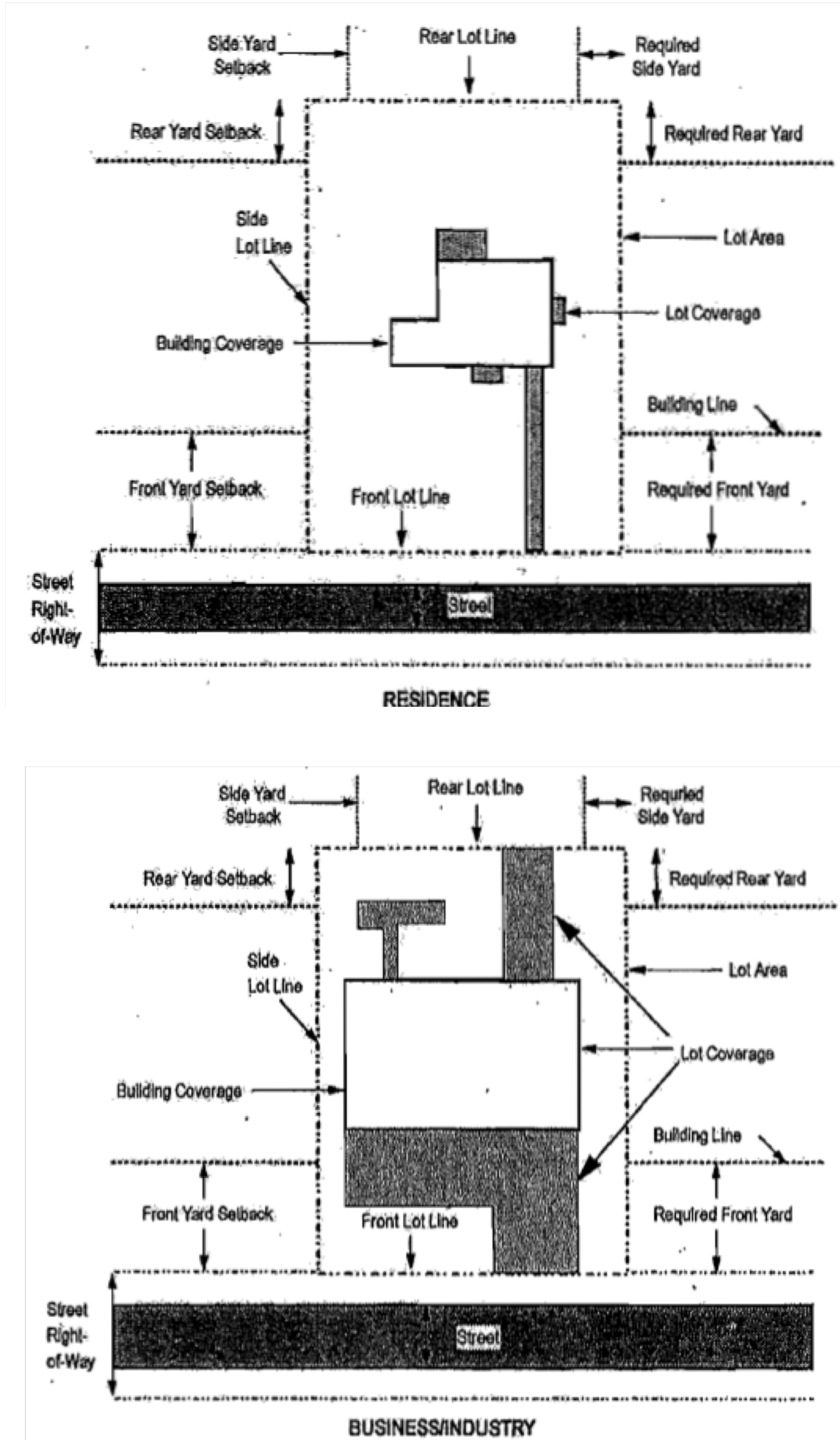
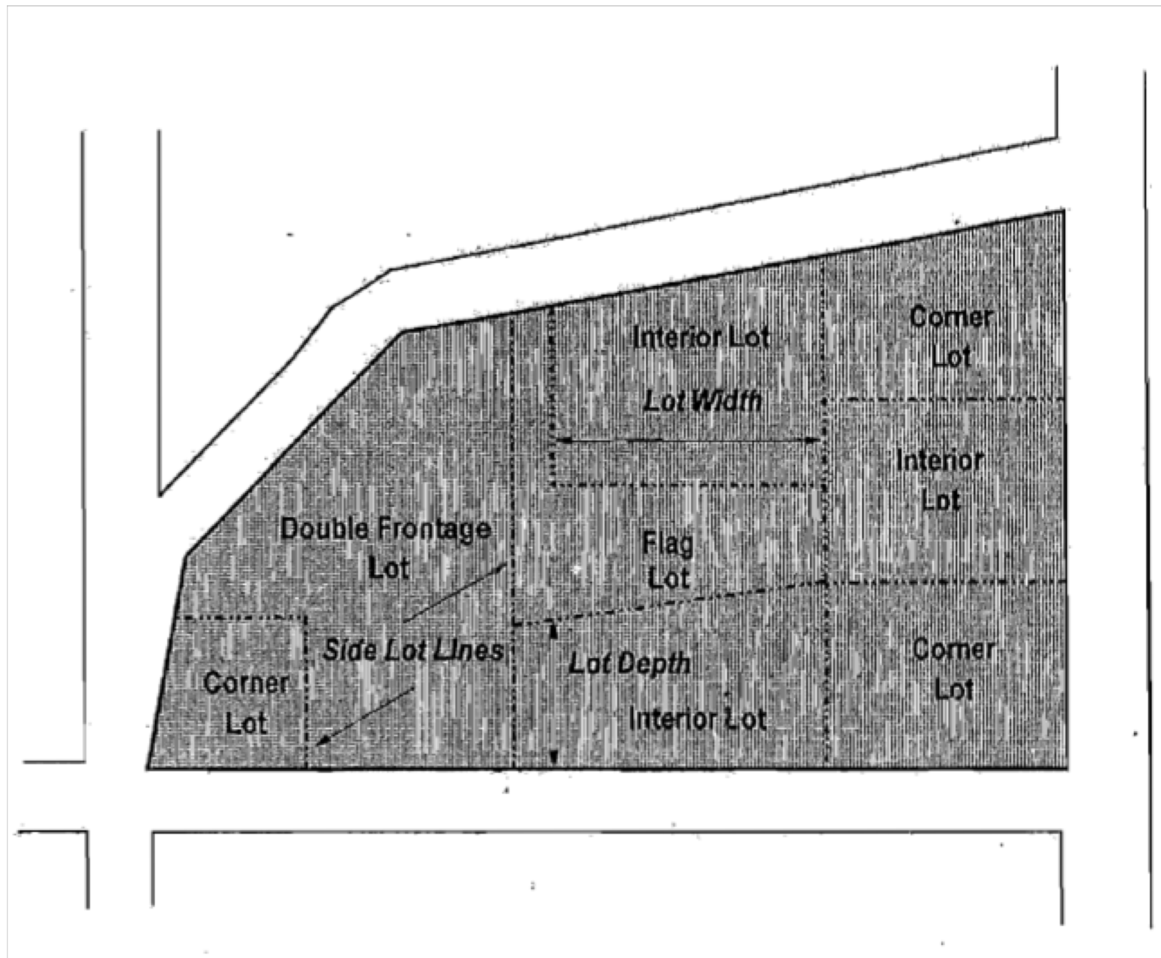


FIGURE 2

Types of Lots



1.6.34 Lot, double frontage. A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot. (See Figure 2)

1.6.35 Lot, flag. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way owned in fee simple. (See Figure 2)

1.6.36 Lot, frontage. The length of the front lot line measured at the street right-of-way line. (See Figure 1)

1.6.37 Lot line, front. The lot line separating a lot from a street right-of-way. (See Figure 1)

1.6.38 Lot line, rear. The lot line opposite and more distant from the front lot line; or in the case of a triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. (See Figure 1)

1.6.39 Lot line, side. Any lot line other than a front or rear lot line. (See Figure 1)

1.6.40 Lot, minimum area of. The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

1.6.41 Lot width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line. (See Figure 2)

1.6.41.A "Mini-warehouse" a building(s) divided into separate storage units or bays that are individually leased to persons or organizations for the small-scale storage of personal property, excluding hazardous materials stored in an unsafe manner, such as the household goods of a family. The individual storage units may be climate controlled. Warehouse facilities designed to accommodate large-scale shipping and receiving of goods and materials are not included in this definition. (as added by Ord. #13, March 2001)

1.6.42 Net area of lot (net acreage). The area of the lot excluding those features or areas which the ordinance excludes from the calculation.

1.6.43 Nonconforming lot. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

1.6.44 Nonconforming structure or building. A structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

1.6.45 Nonconforming use. A use or activity which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

1.6.45.A "Oil change facilities" shall mean a building, site, or portion thereof used for the checking, changing, and adding of motor oil and other vehicle fluids. Other minor vehicle maintenance services may also be provided including lubrication, tire rotation, tire inflation, and installation of wiper blades and air filters. This definition is not intended to include businesses providing other more extensive vehicle repairs and maintenance. (as added by Ord. #23, Sept. 2002)

1.6.46 Owner Is a person who is the owner of property or agent in charge or control of the property.

1.6.47 Permitted use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

1.6.48 Person is any individual, partnership, firm, association, joint venture, public or private corporation, commission, board, public or private institution, or any other legal entity.

1.6.48A Porous paving material. Any commonly recognized surface treatment, which allows storm water to pass through, including modular grid pavements, permeable interlocking concrete pavement, porous concrete and asphalt, pavers, or cobbles. This definition is intended to encompass such "green infrastructure" surface treatments as may be allowed or required by the Tennessee Department of Environment and Conservation for purposes of stormwater treatment. (as added by Ord. #2009-49, June 2009)

1.6.48.B Portable Storage Unit. A portable storage unit shall mean a fully enclosed box-like storage container that is constructed primarily of metal, that is without wheels or axles, that is transported to a location by truck and set in placed by a hydraulic lift or similar device, and that is used for temporary storage. (as added by Ord. #2008-02, June 2008, and amended by Ord. #2008-50, Aug. 2008)

1.6.49 Principal use. The primary or predominant use of any lot.

1.6.50 Quadruplex. A structure on a single lot containing four dwelling units.

1.6.51 Reserve strip. A strip of land located adjacent to a roadway right-of-way that a developer retains title to in order to prevent neighboring owners from obtaining access to the roadway.

1.6.52 Right-of-way. (1) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses; (2) generally, the right of one to pass over the property of another.

1.6.53 Setback. The Distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps.

1.6.54 Setback Line. That line that is the required minimum distance from the street right-of-way or any other lot line that established the area within which the principal structure must be erected or placed.

1.6.54.A.

(1) Hardcore Sex Media shall mean media that is characterized or distinguished by specified sexual activities as described herein.

(2) Mini-sex Media Exhibition Outlet shall mean a sex media exhibition outlet wherein customers, members or patrons view sex media in booths, stalls, rooms, or other viewing areas that have a seating capacity of less than fifty (50) people.

(3) Sex Accessories shall mean instruments, devices, or paraphernalia designed as representatives of human genital organs or female breasts, or designed and marketed primarily for use in stimulating human genital organs; or lingerie, leather goods, and/or other items marketed or presented in a context to suggest their use in sadomasochistic practices characterized by flagellation, torture, and/or physical restraint.

(4) Sex Accessories Outlet shall mean an establishment displaying and/or offering for sale sex accessories.

(5) Sex Entertainment Outlet shall mean an establishment offering live performances of nude dancing or other live displays of specified anatomical areas, whether viewed in person or through electronic transmission, and any establishment that would be an "adult cabaret" as defined Tennessee Code Annotated, § 7-51-102.

(6) Sex Outlet shall mean any "sex media outlet," "sex media exhibition outlet," "sex entertainment outlet," "sex service outlet," or "sex accessories outlet" as defined herein.

(7) Sex Media shall mean any print or electronic media (including but not limited to books, magazines, photographs, films, videocassettes, compact discs, DVD, etc.) that is characterized or distinguished by an emphasis on matter depicting "specified sexual activities" or "specified anatomical areas."

(8) Sex Media Exhibition Outlet shall mean an establishment exhibiting media that is characterized or distinguished by an emphasis on specified sexual activities or specified anatomical areas where such exhibition is primarily for on-site enjoyment by customers, members, or patrons.

(9) Sex Media Outlet shall mean an establishment having as a substantial portion of its stock and trade (substantial portion meaning over 20% of floor area, or over 20% of inventory by units or value, or over 20% of revenues, or an inventory of 200 or more units

of sex media, or any amount of hardcore sex media) in sex media, where the sex media is for use off-premises.

(10) Sex Service Outlet shall mean an establishment offering through its employees or otherwise for any consideration, on-premises or off-premises, to privately perform or participate in specified sexual activities, whether actual or simulated; to privately model or display specified anatomical areas; or to provide any sort of intense physical contact such as wrestling or tumbling between persons of the opposite sex, or between persons of the same sex if at least one of the persons is displaying his or her specified anatomical areas as described herein; or to provide massage (except by state licensed massage therapists in accordance with state licensing standards); or body painting; or lap dancing; or any "adult-oriented establishment" as defined in Tennessee Code Annotated, § 7-51-1102, where such establishment is not encompassed in Tennessee Code Annotated, § 7-51-1102, definitions of "adult bookstore," "adult cabaret," "adult-entertainment," "adult mini-motion picture theater," or "adult motion picture theater."

(11) Specified Anatomical Areas shall include less than completely and opaquely covered human genitals, pubic region, buttocks, female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state even if completely and opaquely covered.

(12) Specified Sexual Activities shall mean human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, contact between the mouth of one person and the genitals of another, sodomy, or bestiality; or penetration of body orifices or stimulation of a genital organ by a sex accessory as defined herein; or fondling or erotic touching of human genitals, pubic region, buttock, or female breasts. (as added by Ord. #2004-02, March 2004)

1.6.55 Sign. Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to a object, person, institution, organization, business, product, service, event or location by any means, including

words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

1.6.56 Sign, billboard. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

1.6.57 Sign, portable. A sign that is not permanent, affixed to a building, structure, or the ground.

1.6.58 Slope is the inclination of ground surface which is expressed as a ratio of horizontal to vertical distance, sometimes also expressed as a percent or degree.

1.6.59 Snack shop. A limited menu restaurant serving primarily pre-packaged items and items prepared off-site and being without restaurant cooking equipment (commercial range, ovens, fryers, etc.) and having seating for the lesser of 20 patrons or 1 seat per available customer parking space and with no drive-through window service. (as added by Ord. #2010-19, June 2010)

1.6.60 Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it and including those basements used for principal use.

1.6.61 Story, Half. A space under a sloping roof which has the line of intersection of the roof and wall face not more than three feet (3') above the floor level, and in which space the possible floor area with head room of five feet (5') or less occupies at least 40 percent of the total floor area of the story directly beneath.

1.6.62 Street, collector. A street which collects traffic from local streets and connects with minor and major arterials.

1.6.63 Street, cul-de-sac. A street with a single common ingress and egress and with a turnaround at the end.

1.6.64 Street, dead end. A street with a single common ingress and egress.

1.6.65 Street, local. A street designed to provide vehicular access to abutting property and to discourage through traffic.

1.6.66 Street, major arterial. A street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterials.

1.6.67 Street, minor arterial. A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

1.6.68 Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

1.6.69 Triplex. A structure on a single lot containing three (3) dwelling units.

1.6.70 Yard. An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the zoning ordinance.

1.6.71 Yard depth. The shortest distance between a lot line and a yard line.

1.6.72 Yard, front. A space extending the full width of the lot between any building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line. Such front yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance.

1.6.73 Yard line. A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

1.6.74 Yard, rear. A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line. Such rear yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance.

1.6.75 Yard, required. The open space between a lot line and the buildable area within which no structure shall be located except as provided in the zoning ordinance.

1.6.76 Yard, side. A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal

building. Such side yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance.

1.7 CONDITIONAL USE REVIEW

1.7.1 General

Conditional uses must be listed as a conditional use in the zoning district and they require approval of the Board of Zoning Appeals. This section establishes a process for the review of conditional use requests. The applicant for a conditional use shall supply information adequate for a review and decision regarding the proposed conditional use. The information to be supplied by the applicant is to include a survey and site plan identifying existing and/or proposed property boundaries, adjacent roads and properties including the buildings and uses thereon, the proposed building footprint and site features, proposed indoor and outdoor uses on the property, proposed landscaping and buffering, proposed outdoor lighting, proposed parking and traffic circulation including site ingress and egress, proposed areas for shipping and receiving and waste disposal, proposed hours of operation including shipping and receiving, proposed special conditions for truck routing, and descriptions of any local, state and federal permits required for the proposed use and location. The Planning Director (Community Development Director) shall prepare a staff report addressing the considerations described below. The review of these considerations shall be used to identify any concerns with the particular conditional use proposal. Pursuant to any identified concerns, possible mitigating conditions or limitations in the approval of the conditional use shall be discussed. The Board of Zoning Appeals shall approve or deny the conditional use request based upon its findings in the review process described herein. The approval of a conditional use request shall include any conditions or limitations of the approval based upon the review. Operation and maintenance of a conditional use in violation of any conditions or limitations stipulated for its approval is unlawful and a violation of the zoning regulations.

1.7.2 Considerations

The considerations in reviewing a conditional use permit applications include the following: What is the size and configuration of the proposed site and how is it situated relative to surrounding properties? Does the size of the proposed site present any concerns in terms of its ability to accommodate parking, expansion of the proposed use, or needed buffering? What is the classification of the street(s) by which the site is accessed? Will the proposed use have traffic impacts on residential streets? Does the proposed use generate traffic, noise, light, glare, vibrations, odors, fumes, or hazards that are not in keeping with the

character of the zone? Does the proposed use fit relatively well within the neighborhood or district in terms of scale, appearance, pedestrian circulation, etc.? Does the proposed use present any particular problems if the site and/or any structures thereon do not conform to the requirements of the zoning ordinance in terms of size, setbacks, impervious area, etc.? Does the existing or proposed site design present a particular problem if the conditional use was approved (e.g. a driveway location with poor visibility)? Would the proposed conditional use impact historic resources or other environmental concerns to a significantly greater extent than if the site were developed with a principally permitted use? Will the proposed conditional use experience significant negative impacts from the surrounding uses in the zoning district? (as added by Ord. #15, April 2001, and replaced by Ord. #2005-20, June 2005)

2.0 ZONING DISTRICTS.

2.1 General Provisions.

No Building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted in the district in which it is located, except as hereafter provided. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose including but not limited to emergency service facilities such as buildings, garages, and/or dispatch centers for ambulances, fire police and rescue and the like and other public services and facilities owned and operated by a governmental entity. (as amended by Ord. #2017-05, Feb. 2017)

2.1.1 Districts Established.

To classify and regulate the uses of land and buildings, the height and bulk of buildings, the area and other open spaces about buildings, and the intensity of land use, the city is hereby divided into sixteen (16) zoning districts to be known as follows:

(1) RA esidential Agricultural District;

(2) R-1 Single-Family Residential Dwelling District;

(3) R-2 Low Density Single and Multi-family Dwelling District;

(4) R-3 High Density Single and Multi-family Dwelling District;

(5) R-4 Mobile Home Parks District;

(6) R-5 High Rise Residential District;

(7) CN Commercial/Neighborhood District;

(8) PI Professional and Institutional District;

(9) CG General Commercial District;

(10) CH Highway Commercial District;

(11) CBD Central Business District;

(12) MU Mixed Use District;

(13) IL Light Industry District;

(14) IH Heavy Industry District.

(15) UC University Campus District;

(16) B Buffer (as amended by Ord. #8, Aug. 2000, and Ord. #2003-22, Aug. 2003)

Table 1 Summarizes uses by district.

2.1.2 Uses Prohibited.

Uses which are not specified as allowed, or conditional, including uses substantially similar to named uses, are prohibited. The sale, distribution, and manufacture of fireworks is prohibited in all zoning districts. (as amended Ord. #2003-38, Dec. 2003)

2.1.3 Accessory Structures and Uses.

Subject to the regulations governing accessory structures in Section 3.8, customary and incidental accessory structures are allowed in any zoning district except CBD. Accessory structures are to be for uses that are incidental to and in support of an otherwise lawful principal use of the lot such as those examples given in Table 1. In no case shall an accessory structure be used for a use that is not lawful in the zoning district.

Table 1
USES AND ZONING DISTRICTS[1]

USES	RA	R-1	R-2	R-3	R-4	R-5	B	CN	PI	CG	CH	CBD	MU	IL	IH	UC
Accessory structures such as a tool shed, garden shed, workshop, detached garage or carport, gazebo, pool house and the like may be located in conjunction with residential uses. Accessory structures associated with non-residential uses could include the foregoing types of uses as well as signs and other structures that support the principal use of the property.	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x
Agricultural accessory, customary	x															
Animal boarding and kennels										c	c					
Agricultural uses	x															
Amusement facility										x	x	x	x	c	c	
Bed and breakfast								c	x	x	x	x	x	c	c	
Billboards							c									
Building supply										x	x	x	x	c	c	
Cellular communication towers							c									
Cemetery							x		x	x	x	x	x	c	c	
Church	c		c	c	c	c		x	x	x	x	x	x	x	x	c
College or other higher education institution[2]									x	x	x	x	x	c	c	x
Commercial, region-serving											c					
Community center and the like										x	x	x	x	c	c	
Day care	c		c	c	c	c		c	x	x	x	x	x	c	c	c
Dry cleaners, one drive-up window								x		x	x	x	x	c	c	
Dry cleaners, with or without drive-up window										x	x	x	x	c	c	
Dwelling, duplex			x	x	x											x

[1] x = use by right
c = conditional use

[2] Includes usual and customary uses associated with a college or university as described in section 2.17.

USES	RA	R-1	R-2	R-3	R-4	R-5	B	CN	PI	CG	CH	CBD	MU	IL	IH	UC
Dwelling, high rise residential						x										
Dwelling, mobile home, in mobile home park					x											
Dwelling, multi-family				x	x				x	x	x	x	x	x	x	x
Dwelling, quadruplex			x	x	x											x
Dwelling, residential, above first floor												x				
Dwelling, single family detached		x	x	x	x								x			x
Dwelling, triplex			x	x	x								x			x
Emergency services facility and/or dispatch center and other public facilities and services	x	x	x	x	x	x	x	x	x	x	x	x	c	x	x	x
Entertainment facility										x	x	x	x	c	c	
Farm and garden										x	x	x	x	c	c	
Financial institution with any number of drive-up lanes									x	x	x	x	x	x	x	
Financial institution, with up to 3 drive-in lanes							x	x	x	x	x	x	x	x	x	
Flea market or similar indoor/outdoor sale complex											x		c			
Forests, other natural vegetative growth, landscaping, berms, fences, and/or walls							x									
Foster home									x	x	x	x	x	c	c	
Fraternal lodge and the like										x	x	x	x	c	c	
Funeral home, mortuary, and like									x	x	x	x	x	c	c	
Gasoline sales and/or service, including combined with food mart								x		x	x		c			
Golf course	c	c	c	c	c		x									
Government office									x	x	x	x	x	c	c	
Home occupation, subject to 3.10	x	x	x	x	x	x						x	x			x
Hospital									x	x	x	x	x	c	c	
Hotel										x	x	x	x	c	c	
Junkyard															x	
Library, public								x	x	x	x	x	x	c	c	
Living facility, congregate and/or residential care									x	x	x	x	x	c	c	x
Maintenance facility															x	
Mall, regional										c						
Manufacturing business															x	

USES	RA	R-1	R-2	R-3	R-4	R-5	B	CN	PI	CG	CH	CBD	MU	IL	IH	UC
Manufacturing, light, within a building														x	x	
Medical office or clinic									x	x	x	x	x	c	c	
Mini-warehouse facilities										x	x					
Motel										x	x	x	x	c	c	
Office park, region-serving											c					
Outdoor arena, rodeo grounds, race track, firing range, or similar facility													c			
Ornamental and vegetable gardens							x									
Park	c	c	c	x	x							x				
Parking lots							c									
Passive parks, playgrounds, fitness trails, picnic areas and picnic shelters, swimming pools, outdoor sports courts, fields, or grounds primarily for recreational use other than league or tournament play, and greenways							x									
Professional office						c		x	x	x	x	x	x	c	c	
Public utilities							x									
Recreation, commercial										x	x	x	x	c	c	
Recreation/utility/other necessary building for mobile home park					c											
Recycling center															x	
Restaurant, with drive-up facility										x	x		c			
Restaurant, without drive-up facility								x		x	x	x	x	c	c	
Salvage yard															x	
School, preschool, primary or secondary, public or private	c		c	c	c	c		c	x	x	x	x	x	c	c	c
School, commercial or trade									x	x	x	x	x	c	c	
Service business, personal						c		x	x	x	x	x	x	c	c	
Service business									x	x	x	x	x	c	c	
Shopping center, not a regional mall										x	x	x	x	c	c	
Single-family homes in single-family house structures built or located on the same site prior to 2008									x							
Snack shop									c							
Storage yard															x	

USES	RA	R-1	R-2	R-3	R-4	R-5	B	CN	PI	CG	CH	CBD	MU	IL	IH	UC
Store, department										x	x	x	x	c	c	
Store, retail										x	x	x	x	c	c	
Store, convenience								x		x	x	x	x	c	c	
Store, discount, large scale, freestanding											x		c			
Store, freestanding neighborhood								x		x	x	x	x	c	c	
Streets, driveways, bridges, walkways, bikepaths							x									
Supermarket										x	x	x	x	c	c	
Tourist, guest or boarding home				c	c			c	x	x	x	x	x	c	c	
Tower, any type									c	c	x	x	x	x	x	
Tower, utility	c	c	c	c	c			c								
Townhomes			x	x		x			x	x	x		x	x	x	x
Upper-story residences									c							
Utility facility														x	x	
Vegetated riparian buffers							x									
Vehicle parts and accessories, not including vehicle repair or sales										x	x	x	x	c	c	
Vehicle sales, rental, and/or repair											x	c	c			
Veterinary office or clinic, without kennels and runs									x	x	x	x	x	c	c	
Veterinary office or clinic, with or without kennels and runs											x		c	c	c	
Wetland mitigation areas, stormwater detention or retention areas, water courses or bodies of water, slope easements for construction projects or slope preservation areas							x									
Wholesale business, storage and distribution													c	x	x	

(as amended by Ord. #8, Aug. 2000, Ord. #23, Sept. 2002, Ord. #2003-22, Aug. 2003, Ord. #2007-02, Jan. 2007, Ord. #2007-05, March 2007, Ord. #2007-30, Sept. 2007, Ord. #2007-34, Sept. 2007, Ord. #2007-42, Nov. 2007, Ord. #2008-02, Jan. 2008, Ord. #2010-18, June 2010, Ord. #2010-19, June 2010, Ord. #2010-38, Oct. 2010, Ord. #2011-04, May 2011, Ord. #2017-05, Feb. 2017, Ord. #2017-38, July 2017, Ord. #2017-46, Sept. 2017, Ord. #2018-22, July 2018, Ord. #2019-40, Sept. 2019 ***Ch18_01-10-22***, and Ord. #2020-25, Aug. 2020 ***Ch18_01-10-22***)

2.1.4 Zoning Map Adoption.

The boundaries of the zoning districts established by this ordinance are hereby established as shown on the "Official Zoning Map of Cleveland, Tennessee," July

2006 which is on file in the city planning department. The Official Zoning Map of Cleveland, Tennessee, July 2006, and all notations, references and other information shown thereon are as much a part of this article as if the information set forth thereon was all fully described and set out in this section. Any amendments and revisions of the official zoning map heretofore or hereafter enacted by the Cleveland City Council are also made a part of this article. (as amended by Ord. #2006-22, Aug. 2006)

2.1.5 Rooming Houses

2.1.5.A Purpose and intent. The residential zoning districts are established with the intention that a dwelling unit would be occupied by a single family or household. Occupancy of a dwelling unit by several unrelated individuals can negatively impact the quality of the residential environment for other dwelling units in the neighborhood through increased traffic, parking demand, noise, litter, property that is poorly maintained, etc. These problems can arise since the unrelated occupants may lack a shared since of common household responsibility toward the general upkeep of the property and the owners of such property may be induced to minimize maintenance investment where occupancy is somewhat transitory and the expectations of the occupants regarding property conditions are relatively low. Likewise the unrelated occupants may lack the personal interest in neighborhood environmental quality held by those whose concerns for such quality extend beyond themselves to fellow members of their households. Such occupancy of a dwelling unit by several unrelated individuals is the primary characteristic of a rooming house as hereinafter defined. This ordinance is intended to provide for the public health, safety, convenience and general welfare by furthering the purposes and intent described in the general provisions of the zoning ordinance and by mitigating the aforementioned negative impacts while providing for the establishment of rooming houses in certain residential districts.

2.1.5.B Rooming house definition. Subject to exceptions specifically described herein, a rooming house is defined as a singular dwelling unit in a structure containing one or more dwelling units that is occupied by more than four (4) unrelated persons, or a dwelling unit that is not a single-family dwelling where there are more than two (2) unrelated occupants of legal driving age and where there are not at least two (2) paved on-site parking spaces outside driveway travel lanes for each bedroom or sleeping area in all the dwelling units on the site. For purposes of this definition, occupancy by more than four (4) unrelated persons means that each of the occupants is not in a qualifying

relationship to all of the other occupants by birth, marriage, or adoption. A qualifying relationship is that of a spouse, parent, child, direct descendent such as a grandchild, direct ancestor such as a grandparent, step-child or step-parent, or sibling or step-sibling. Exceptions to this rooming house definition shall include: a lawfully operating bed and breakfast, motel, or hotel; group homes for the disabled with not more than two (2) live-in caregivers; dwelling units with not more than two (2) persons per bedroom and with not more than two (2) occupants who are not in a qualifying relationship with each of the remaining occupants; dwelling units in structures with two (2) or more dwelling units that were lawfully constructed prior to November 1, 2002 and that are occupied by not more than two (2) person per bedroom; and dwelling units other than single-family dwellings where occupancy does not exceed two (2) persons per bedroom and where there are at least two (2) paved on-site parking spaces excluding driveway travel lanes for each bedroom on the site. It is not the intention of this ordinance to determine that a qualifying relationship does not exist between any two (2) persons who declare themselves to be in a domestic partnership that they consider as equivalent to marriage and where the physical, emotional, and financial relationships correspond to marriage. It is not the intention of this ordinance to prohibit such occasional and transitory occupancy by houseguests as might be normal within the community.

2.1.5.C Special criteria for rooming houses. In addition to site design criteria and conditional use requirements stipulated elsewhere in the zoning ordinance, rooming houses must comply with special criteria described below. Special criteria applicable to rooming houses may exceed requirements otherwise applicable to buildings and sites employed in other uses but nothing herein is intended to allow rooming houses to violate other ordinance provisions. Special criterion: rooming house shall have a minimum of one bedroom for every two (2) occupants. Special criterion: rooming houses shall provide at least two (2) paved on-site parking spaces per bedroom plus one paved on-site space for each additional room (excepting rooms used exclusively as bathrooms, laundry rooms, kitchens, hallways or storage space) and the parking shall be configured such that double-parking and backing into a public street is not promoted. Special criterion: on-street parking for rooming houses shall be prohibited where the street width is substandard or where undesirable traffic conditions would result. Special criterion: each rooming house site shall contain at least seven thousand five hundred (7,500) square feet of land area per dwelling unit plus two thousand five hundred (2,500) square feet for each bedroom over two (2). Special criterion: occupancy of a rooming house

shall require a minimum living area of three hundred (300) square feet per occupant and otherwise meet requirements of the adopted building codes. Special criterion: each rooming house shall have garbage containers with snug-fitting attached lids and a minimum capacity of thirty (30) gallons each (one can per bedroom but not less than three cans) unless alternative containers of equal or greater capacity are allowed or required by the code enforcement officer. Special criterion: the owner shall keep the rooming house and its grounds in a good repair at all times and shall otherwise keep the property in compliance with city ordinances. Special criterion: after 10:00 P.M. and before 7:00 A.M. noise emanating from the rooming house or its grounds shall not be perceptibly louder at the property lines of the rooming house property than noise from residential property located wholly or in part within three hundred (300) feet of the rooming house property in any direction. Special criterion: the owner of property used as a rooming house shall maintain on file with the city clerk the current owners name, correct mailing address and correct phone number as well as the name, correct address, and correct phone number of the local agent responsible for the management of the property. Special criterion: conditional use approval for rooming houses shall be for a period of four (4) years from the date of the approval and continuation of the rooming house shall require review and re-approval of the conditional use by the Board of Zoning Appeals every four (4) years thereafter at which time a record of complaints against the rooming house the previous period may be considered. (as amended by Ord. #2011-07, June 2011)

2.1.5.D Rooming house violations. It shall be unlawful and a violation of the zoning ordinance to occupy as a rooming house any dwelling unit that is the property of another, or suffer such occupancy of a dwelling unit that is one's own property, contrary to any provisions of this ordinance including also the aforementioned special criteria for rooming houses and any conditions imposed in the conditional use approval. Violations are subject to enforcement and remedies permitted in Tennessee Code Annotated, § 13-7-208, and the zoning ordinance and other applicable City of Cleveland ordinances. (as added by Ord. #22, Sept. 2002, and amended by Ord. #25, Dec. 2002, and Ord. #2011-07, June 2011)

2.2 RA DISTRICT (Residential Agricultural).

2.2.1 Uses allowed. The RA, Residential District, allows the following uses:

A. Uses Allowed by right in the R-1 District;

B. Agricultural uses including farmland, cropland, pastureland, silviculture, floriculture, sale of farm produce, and other agricultural uses, subject to the health codes of the City of Cleveland, Tennessee;

C. Customary agricultural accessories such as barns, corrals, pens, and the like which are normally required in the operation of agricultural uses.

2.2.2 Conditional Uses. The Following uses may be allowed:

A. Conditional uses allowed in the R-1 District and subject to any minimum requirements as may be established for the review of a given conditional use in the R-1 district. (as amended by Ord. #14, March 2001, and Ord. #2007-34, Sept. 2007).

2.3 R-1 DISTRICT (Single-Family Residential).

2.3.1 Uses allowed. The R-1, Single-Family Residential, District allows the following uses:

A. Single-Family Detached Dwellings;

B, Home Occupations, subject to 3.10.

2.3.2 Conditional Uses. The following uses may be allowed:

A. Parks;

B. Utility Towers.

C. Churches with or without daycare, pre-school, primary school, or secondary school. Conditions for approval include location on and access from an arterial or collector street and compliance with the applicable site planning requirements in sections 3.0 and 6.2. Conditions for approval would be directed toward mitigating impacts on homes and residential streets from noise, traffic, parking demand, and other effects of the church development however, proposed new church sites shall not be considered for a conditional use review unless they contain at least two (2) acres and are located on an arterial or collector street.

D. Golf courses and ancillary facilities such as clubhouses, parking, cart sheds and the like. (as amended by Ord. #14, March 2001, and Ord. #2007-05, March 2007)

2.4 R-2 DISTRICT (Low Density Single- and Multi-Family Residential

2.4.1 Uses allowed. The R-2, Low Density Residential, District Allows the following uses:

A. Uses allowed by right in R-1;

B. Duplexes, triplexes, and quadraplexes.

C. Townhomes, provided that the townhomes are built in compliance with the townhome subdivision regulations of the Cleveland Municipal Planning Commission including but not limited to such provisions of those subdivision regulations that modify lot width and setbacks within the underlying zoning district. (as amended by Ord. #2007-30, Sept. 2007)

2.4.2 Conditional uses. The following uses may be allowed:

A. Uses allowed as conditional uses in the R-1 District;

B. Churches with or without day care, preschool, primary, or secondary schools; however, proposed new church sites shall not be considered for conditional use review unless they are located on an arterial or collector street;

C. Day-care, preschool, primary or secondary schools, public or private;

D. Golf courses. (as amended by Ord. #14, March 2001)

2.5 R-3 District (Multi-family Residential).

2.5.1 Uses allowed. The R-3, Multi-family Residential, District allows the following uses:

A. Uses Allowed by right in the R-2 District;

B. Multi-family Dwellings with three (3) or more units per structure (whether designed as an apartment, condominium, or townhouse);

C. Parks.

D. Townhomes, provided that the townhomes are built in compliance with the townhome subdivision regulations of the Cleveland Municipal Planning Commission including but not limited to such

provisions of those subdivision regulations that modify lot width and setbacks within the underlying zoning district. (as amended by Ord. #2007-30, Sept. 2007)

2.5.2 Conditional uses. The following uses may be allowed:

A. Except as otherwise allowed by right in the R3 district, conditional uses allowed in the R2 district subject to any minimum requirements that may be established for the review of a given conditional use in the R2 district.

B. Tourist, guest, or boarding homes. (as amended by Ord. #14, March 2001)

2.6 R-4 District (Mobile Home Parks).

2.6.1 Uses allowed. The R-4, mobile home park, district allows the following uses:

A. Uses allowed by right in the R-3 District;

B. Mobile homes or manufactured housing in mobile home or manufactured home parks or mobile home or manufactured home developments.

2.6.2 Conditional Uses. The Following uses may be allowed:

A. Conditional uses allowed in the R3 district subject to any minimum requirements that may be established for a given conditional use in the R3 district.;

B. Recreational, utility, and other necessary accessory buildings and uses in mobile home parks for the exclusive use of mobile home park residents. (as amended by Ord. #14, March 2001)

2.7 R-5 District (High Rise Residential).

2.7.1 Uses allowed. The R-5, High Rise Residential, District allows the following uses:

A. Residential structures over three stories in height with necessary resident services, such as utility rooms;

B. Home occupations, subject to 3.10.

2.7.2 Conditional uses. The following uses may be allowed:

A. Professional offices;

B. Personal service businesses, such as barbers, beauty salons, nail salons, photography studios and the like;

C. Churches with or without day care, preschool, primary, or secondary schools.

2.8 CN District (Neighborhood Commercial).

2.8.1 Neighborhood Commercial District.

A. Neighborhood Commercial District Created. There is hereby created a neighborhood commercial district nc which is designed to provide Convenient retail and professional services facilities in proximity to populated residential areas without imposing incompatible uses or undesirable impacts upon a residential area.

B. Uses permitted. Professional-institutional Zoning District uses permitted as prescribed in section 2.9, Professional Institutional Zoning District, of this zoning ordinance; barber shop, beauty shop, restaurants but excluding a restaurant establishment that is defined as a fast-food or drive-in restaurant, dry cleaning, excluding drive-in window service and coin-operated laundry, hardware store, drug store, grocery store, nursery or garden store, bakery, shoe repair, apparel shops, self-service gasoline station limited to three (3) pumps per district and excluding auto repair, branch banks with drive-in window service, residential district uses. (Ord. of 11-27-78, as amended by Ord. #2014-37, Oct. 2014, and Ord. #2018-17, June 2018)

C. Uses prohibited.

Any use not specifically permitted or permitted on appeal. (Ord. Of 11-27-78)

D. Uses permitted on appeal. Government offices, tailoring or dressmaking shops, appliance or television repair. (as amended by Ord. #2013-39, Aug. 2013, and Ord. #2014-37, Oct. 2014)

E. Required lot size.

A minimum lot size of one (1) acre (43,500 square feet) is required with a maximum lot size of three (3) acres. A minimum lot width of one hundred (100) feet measured at the front building setback line is required. The structure must be situated on the lot to front on a street.

F. Minimum building setbacks.

Front-50 feet; rear-20 feet; side-15 feet. On a corner lot that adjoins intersecting streets, the front of the building must be determined and the fifty (50) foot setback maintained. The side setback from the other intersecting street shall be increased to a minimum of thirty (30) feet. (Ord. Of 11-27-78)

G. Maximum building area.

The maximum building area for all buildings including accessory buildings shall not exceed forty percent (40%) of the total lot area. No individual establishment shall occupy more than three thousand) 3,000 square feet. The maximum building height shall be two (2) stories or thirty (30) feet measured from the highest point of the structure.

H. Minimum off-street parking and loading.

All parking facilities shall be off-street and be provided at a rate of ten (10) spaces for each establishment. Each parking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width.

All loading and unloading facilities can be located either in the rear or in specifically designated spaces in the front.

No customer or employee parking is allowed in the rear or side yard setbacks unless the required setback distances are increased sufficient to accommodate parked vehicles. (Ord. Of 11-27-78)

I. Landscaping, buffers and appearance.

(a) Landscaping and buffers. On land to be used for neighborhood commercial use that adjoins any residential property the following minimum landscaping requirements apply:

(1) Planted areas shall be provided and maintained at the side and rear property lines that adjoin residential property. The planted area shall be 3-10 feet in width and consist of vegetation that will provide screening protection for the residences or an attractive wall or fence may be provided that is a minimum of eight (8) feet in height. (as amended by Ord. #2014-37, Oct. 2014)

(2) At streets entrances and exits to a neighborhood commercial district, planted areas shall be provided that enhance appearance but doesn't obstruct traffic visibility or create a hazard for pedestrians.

(3) Areas for refuse and trash collection shall be so designated and the containers kept in an enclosed area that will allow adequate trash storage yet prohibit the viewing of the trash collected from adjoining properties.

(4) Lighting. No lighting may be directed in a manner that will illuminate adjacent residential properties.

(5) Signs. All signs erected on the structure itself must be mounted flat against the structure and may be no more than ten (10) square feet in size. Each establishment located in a neighborhood commercial development is permitted one (1) such sign. (as amended by Ord. #2014-37, Oct. 2014)

In Addition, one (1) sign may be constructed that identifies the establishments located in the neighborhood commercial development provided its arrangement doesn't obstruct traffic visibility and doesn't exceed one hundred (100) square feet in size. No sign may be mounted above or beyond the wall of the building.

(b) Appearance. The exterior of the building must be of materials that will conform to adjacent residential neighborhoods. The purpose of this is to promote compatibility with the surroundings in residential areas. This section doesn't apply to neighborhood commercial districts if the location is in a district other than residential. (Ord. Of 11-27-78)

J. Hours of operation.

No establishment, except for emergency services of physicians or dentist, shall be open for business between the hours of 10:00 P.M. and 7:00 A.M. (Ord. Of 11-27-78)

K. Special provisions.

(a) No Sales or services shall be conducted on the outside grounds of the neighborhood commercial district.

(b) No public address systems or any other means of amplification shall be used outside the buildings in a neighborhood commercial district.

(c) No neighborhood commercial district shall be permitted within three thousand feet (3,000') of a district where similar facilities are permitted. The measurement of distance will be taken along the center line of streets providing the most direct route and will measure from the nearest corner lot line of each facility in question.

(d) The requirements as stated in this chapter apply only to neighborhood commercial developments in residential and professional-institutional zoning districts as shown on the City of Cleveland Official Zoning Map. (Ord. Of 11-27-78)

L. Site plan requirements.

A site plan containing the following information must be submitted and approved by the Cleveland Municipal Planning Commission.

(a) A Legal description of the total site and a statement of present and/or proposed ownership.

(b) The Location and floor area size of the proposed building, accessory structures, or other improvements, including lot lines, building setbacks, building height, adjacent properties by use and ownership, open spaces, parking spaces, streets and utilities.

(c) The location and dimensions of all point of vehicular and pedestrian access, exits and circulation.

(d) Specify the material proposed for the exterior walls of the building.

(e) Identify the location, intensity and direction of all lighting.

(f) Specify the location of planted areas and type of vegetation or fencing planned for landscaping and buffers. (Ord. Of 11-27-78)

2.8.2 Conditional uses. The following uses may be allowed:

A. Tourist, guest, boarding homes, or bed and breakfast establishments;

B. Day-care;

C. Utility towers.

2.9 PI District (Professional Institutional).

2.9.1 Uses allowed. The PI District includes the following uses.

A. Single-family homes in single-family house structures built or located on the same site prior to 2008. (as deleted by Ord. #2007-42, Nov. 2007, and replaced by Ord. #2010-38, Oct. 2010)

B. Professional offices;

C. Government offices;

D. Service businesses such as catering, dry cleaners, interior decorating services, printing, tailoring, travel agencies, upholstery;

E. Financial institutions with any number of drive-up lanes; branch banking with drive-in window service but not including cash advance, title pawn, flex loan business and the like. (as amended by Ord. #2019-40, Sept. 2019 ***Ch18_01-10-22***)

F. Colleges and other higher education institutions;

G. Commercial or trade schools, such as dance studios, martial arts studios, etc.

H. Personal service businesses, such as barbers, beauty salons, nail salons, photography studios and the like;

I. Cemeteries with or without funeral homes;

J. Funeral homes, mortuaries and the like;

K. Tourist, guest, boarding homes, or bed and breakfast establishments;

L. Congregate living facilities, residential care facilities, foster homes and the like;

M. Churches with or without day care, preschool, primary, or secondary schools;

N. Public libraries;

O. Veterinary offices and clinics, without outside kennels or runs;

P. Medical offices or clinics;

Q. Hospitals. (as amended by Ord. #2, Sept. 1998)

2.9.2 Conditional uses. The following use may be allowed:

A. Transmission towers, microwave towers, water towers, and the like.

B. Upper-story residences; snack shops. (as added by Ord. #2010-18, June 2010, and Ord. #2010-19, June 2010)

2.10 CG District (General Commercial).

2.10.1 Uses allowed. The CG (General Commercial) District, includes the following uses.

A. All uses allowed by right in the CN and PI districts and multi-family dwellings allowed by right in the R-3 District;

B. Commercial recreation, entertainment and amusement facilities;

C. Department stores and retail stores;

D. Dry cleaners with or without drive-up windows;

E. Shopping centers, but not regional malls;

F. Building supply, farm and garden, vehicle parts and accessories, but not including repair or vehicle sales;

G. Supermarkets;

H. Hotels and motels;

I. Restaurants with or without drive-up facilities; (as amended by Ord. #2011-04, May 2011)

J. Convenience stores with or without gasoline pumps;

K. Community centers, fraternal lodges and the like.

L. Mini-warehouse facilities provided that storage units are accessed internally from within the building. (as amended by Ord. #2017-46, Sept. 2017)

2.10.2 Conditional uses.

A. Transmission towers, microwave towers, water towers, and the like.

B. Car wash.

C. Oil change facilities. (as amended by Ord. #23, Sept. 2002)

D. Animal kennel and boarding. (as amended by Ord. #2020-25, Aug. 2020 ***Ch18_01-10-22***)

2.11 CH District (Highway Commercial).

2.11.1 Uses allowed. The CH District includes the following uses:

A. All Uses allowed by right in the CG District and multi-family dwellings allowed by right in the R-3 District;

B. Vehicle sales, rental, service and repair, including truck stops, body shops, road services, car wash facilities, including new or used automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles and mobile homes;

C. Gasoline sales and service, combination gasoline sale and food marts, and similar facilities;

D. [Deleted];

E. Flea markets or similar outdoor or outdoor/indoor sales complexes;

F. Restaurants with or without drive-up facilities;

G. Large-scale, free-standing, discount stores (often called "big-box retailers");

H. Emergency service facilities such as buildings, garages and/or dispatch centers for ambulances, fire, police and rescue;

I. Veterinary offices and clinics, with or without outside kennels or runs;

J. Transmission towers, microwave towers, water towers, and the like.

K. Any junkyard and/or recycling center business in operation as of January 1, 2015 pursuant to the requirements of section 2.22 of the zoning ordinance.

L. Mini-warehouse facilities provided that storage units are accessed internally from within the building.

M. Financial institutions including branch banking, cash advance, title pawn, flex loan business and the like. (as amended by Ord. #20, March 2002, Ord. 2016-17, June 2016, Ord. 2017-05, Feb. 2017, Ord. #2017-38, July 2017, and Ord. #2019-40, Sept. 2019 ***Ch18_01-10-22***)

2.11.2 Conditional uses. The following uses may be allowed:

A. Region-serving commercial, including regional malls;

B. Region-serving office parks.

C. Mini-warehouse to the conditional uses in the CH zoning district.

D. Outdoor arenas, rodeo grounds, race tracks, firing ranges, campgrounds, and other outdoor sports and recreation facilities is added so as to make such facilities conditional uses in the CH zone.

E. Car wash.

F. Oil change facilities.

G. Animal kennel and boarding. (as amended by Ord. #11, March 2001, Ord. #20, March 2002, Ord. #23, Sept. 2002, and Ord. #2020-25, Aug. 2020 ***Ch18_01-10-22***)

2.12 CBD District (Central Business District).

2.12.1 Uses allowed. The CBD includes the following uses:

A. All uses allowed by right in CN, PI, and CG Districts, except veterinary offices and clinics with outside kennels or runs;

B. Multi-family dwellings allowed by right in the R-3 District;

C. Residential uses located above the first floor;

D. Home occupations, subject to 3.10.

2.12.2 Conditional uses.

A. Automobile sales provided no more than 50 percent of the automobile inventory is located outside of a permanent building. In no case shall any parts be stored outdoors nor any repair or body work be conducted outdoors. (As replaced by Ord. #2018-22, July 2018)

2.13 MU District (Mixed Use).

2.13.1 Uses allowed. The MU (Mixed Use) District includes the following uses:

A. All Uses Allowed by Right in the R-1, R-2, R-3, R-5, CN, PI, and CG Districts.

2.13.2 Conditional uses.

A. All uses allowed by right in the CH and IL Districts which are not otherwise allowed by right in the MU District.

2.14 IL District (Light Industry).

2.14.1 The IL (Light Industry) District, includes the following uses:

A. Existing or replacement of single family or multi-family developments on existing sites subject to the section 3.0 Site Design Standards for multi-family development in the R3 zone.

B. Churches with or without day care, preschool, primary, or secondary schools;

C. Wholesale businesses for storing and/or distribution of goods;

D. Light manufacturing which is conducted entirely within a building;

E. Emergency service facilities such as buildings, garages and/or dispatch centers for ambulances, fire, police and rescue;

F. Transmission towers, microwave towers, water towers, and the like;

G. Utility facilities, such as water plants, wastewater treatment plants, electricity substations;

H. Financial institutions with any number of drive-up facilities.

I. Vehicle repair but not including the storage of junk vehicles in the manner of a junkyard as defined in the zoning ordinance; transportation facilities including garages, terminals, transfer facilities, fuel facilities (including fleet fuel facilities and gas stations with or without convenience stores) and the like; and outdoor storage of vehicles, construction materials, and other materials incidental to the operation of a business otherwise allowed in the zone except where such storage would constitute a junkyard (as amended by Ord. #11, March 2001, and Ord. #26, March 2003, replaced by Ord. #2015-25, Sept. 2015, and amended by Ord. #2016-10, April 2016)

2.14.1.1 Mini-warehouse to the principally permitted uses in the IL zoning district. (as added by Ord. #12, March 2001, and replaced by Ord. #2015-25, Sept. 2015)

2.14.2 Conditional uses.

A. All uses, allowed by right in the CN, PI, CG and CH districts which are not otherwise allowed by right in IL.

B. Outdoor arenas, rodeo grounds, race tracks, firing ranges, campgrounds, and other outdoor sports and recreation facilities are added so as to make such facilities conditional uses in the IL zone.

C. LP gas storage and/or distribution.

D. Car wash.

E. Oil change facilities.

F. Vehicle sales. (as amended by Ord. #11, March 2001, Ord. #16, June 2001, Ord. #20, March 2002, Ord. #21, May 2002, Ord. #23, Sept. 2002, Ord. #2011-07, June 2011, Ord. #2014-03, Feb. 2014, and Ord. #2014-15, May 2014, and replaced by Ord. #2015-25, Sept. 2015)

2.14.3 Prohibited Uses

A. Notwithstanding any of the above permitted or conditional uses, new residential uses are not permitted within the IL Light Industry District. (as added by Ord. #2015-25, Sept. 2015)

2.15 IH District (Heavy Industry).

2.15.1 The IH (Heavy Industry) District includes the following uses:

A. All uses allowed by right in the IL zoning district including existing or replacement of single family or existing multi-family developments on existing sites subject to the same conditions as in the IL zoning district.

B. Manufacturing businesses, junkyards and salvage yards;

C. Maintenance facilities and storage yards for schools, government agencies and telephone and cable companies;

D. Recycling centers and the like;

E. Financial institutions with any number of drive-up facilities.

F. Mini-warehouse to the principally permitted uses in the IH zoning district.

G. Vehicle sales, rental, and repair. (as amended by Ord. #2, Sept. 1998, Ord. #11, March 2001, Ord. #12, March 2001, Ord. #21, May 2002, and Ord. #2003-40, Jan. 2004, replaced by Ord. #2015-25, Sept. 2015, and amended by Ord. #2016-10, April 2016)

2.15.2 Conditional uses.

A. Conditional uses allowed in the IL zoning district subject to any restrictions or conditions identified for such conditional use in the IL

zoning district. (as amended by Ord. #11, March 2001, and replaced by Ord. #2015-25, Sept. 2015)

B. Junkyards and salvage yards. (as added by Ord. #2, Sept. 1998, and replaced by Ord. #2015-25, Sept. 2015)

2.15.3 Prohibited Uses

A. Notwithstanding any of the above permitted or conditional uses, new residential uses are not permitted within the IH Heavy Industry District. (as added by Ord. #2015-25, Sept. 2015)

2.16 Temporary uses

The regulations contained in this section are necessary to govern the operation of certain transitory or seasonal uses, non-permanent in nature.

A. Application for a temporary use permit shall be made to the building inspector and shall contain the following information:

(1) A description of the property to be used, rented, or leased for a temporary use, shall include all information to accurately portray the property including address, zoning district, surrounding uses, and any other information deemed necessary by the building inspector.

(2) A sketch plan or map showing the location of the temporary use and surrounding properties.

(3) A description of the proposed activity or use(s), including anticipated attendance.

(4) Availability of parking spaces to service the anticipated use.

B. The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits for use, and to the regulations of any district in which the use is located:

(1) Carnival or circus.

In any nonresidential district, a temporary use permit may be issued for a carnival or circus, but such permit shall be

issued for a period of not longer than fifteen (15) days. Such uses shall be located a minimum of one hundred (100) feet from any residential district.

(2) Real estate sales office.

In any district, a temporary use permit may be issued for a temporary real estate office. Such office shall contain no sleeping or cooking accommodations. Such permit shall be valid for not more than six months, but may be renewed. Such Office or shed shall be removed upon completion of the development project or upon expiration of the temporary use permit, whichever occurs first.

(3) Religious tent meeting.

In any non-residential district or on the property of a church in a residential district, a temporary use permit may be issued for a maximum of thirty (30) days for a tent or other temporary structure to house religious meetings.

C. It shall be unlawful to place or use any portable storage unit on any tract, lot, or parcel in any RA, R1, R2, or R3 zoning district where one or more homes have been constructed except in compliance with this ordinance. Only one portable storage unit shall be allowed per lot, tract, or parcel and none are allowed on a vacant tract, lot, or parcel. No portable storage unit shall be placed so as to interfere with the vision of motorists, or so as to interfere with any utility or drainage. No portable storage unit shall be placed within any public right of way or within15 feet of the travelway of any street, nor shall any portable storage unit be located in front of a house. Portable storage units shall meet or exceed the setback requirements for accessory structures in side and rear yards, as the case may be. No portable storage unit shall be placed in a manner that violates any building code, fire or life safety code, or otherwise block building egress or access for fire and emergency services on the site or adjacent properties. No portable storage unit shall be placed in a floodway. Portable storage units shall be used only for the storage of household goods belonging to persons living on the property. The portable storage unit is for temporary storage only, for a period not exceeding 90 days, and not for more than one such 90 day period during any 12 month period. A sign shall be on the portable storage unit identifying its owner and giving a contact telephone number. A property owner placing a portable storage unit on his/her property shall promptly notify the Community

Development Department in writing as to the address and date of placement; where there is no such notification and a complaint is received or the unit is observed by City staff, no action will be taken for one week but if the required notice is not received during that week enforcement will begin with the presumption that the unit has been in place for 45 days for purposes of the 90 limit. No tractor-trailer type trailer (Federal Highway Administration Vehicle Classification Class 8 or above) shall be used for temporary storage in lieu of a portable storage unit in the aforementioned residential zoning districts. Nothing herein is intended to prohibit the construction trailers of contractors engaged in work on the site or to prohibit commercial vehicles that are otherwise specifically allowed to be parked on the residential property by another ordinance. (as amended by Ord. #2008-50, Aug. 2008)

2.17 UC DISTRICT (University Campus)

2.17.1 The UC University Campus zoning district includes the following uses:

A. All uses allowed by right in the R3 district.

B. Usual and customary uses associated with a college or university are characterized by serving primarily the mission or purposes of the college or university and by a physical and/or organizational integration into the campus life of the institution. Such usual and customary uses include but are not necessarily limited to the following: dormitories; academic buildings; research facilities; libraries; student centers; conference facilities; athletic facilities; operational and administrative facilities (physical plant, fleet facilities, central supply facilities, central computer facilities, administrative offices, etc.); food service facilities; facilities for the arts; book stores, commissaries; churches or houses of worship; campus affiliated organizations facilities (fraternal, social, professional, and public service organizations); schools and pre-schools; daycare facilities; student health care facilities; and parking areas.

2.17.2 Conditional Uses

A. All uses identified as conditional uses for the R3 district and not otherwise included as a usual and customary use associated with a college or university as described above in 2.17.1. (as added by Ord. #8, Aug. 2000)

2.18 B DISTRICT (Buffer)

2.18.1 The B-Buffer zoning district includes the following uses as uses by right when developed such that impervious areas apart from swimming pools does not exceed 20% of the lot area; no principal structure is located within 50 feet of another zoning district; and the area within 20 feet of an adjoining residentially zoned or developed lot or parcel that is completely outside the B-Buffer zoning district must be developed and maintained in perpetuity as a buffer as described in 2.18.1.A below and in accordance with a plan approved by the Planning Director;

A. Buffering between land uses consisting of forests and other natural vegetative growth, landscaping, berms, fences, and/or walls.

B. Passive parks, playgrounds, fitness trails, picnic areas and picnic shelters, swimming pools, outdoor sports courts, fields, or grounds, primarily for recreational use rather than for league or tournament play, greenways, golf courses.

C. Ornamental and vegetable gardens for use of property owners but not commercial agriculture.

D. Cemeteries, memorial gardens, and the like but not funeral homes, mortuaries, or cremation facilities.

E. Vegetated riparian buffers, wetland mitigation areas, stormwater detention or retention areas, water courses or bodies of water; slope easements for construction projects or slope preservation areas.

F. Public or private streets or driveways, bridges, walkways, bikepaths; public utilities including but not limited to drainage facilities, utility substations, water tanks, and the like.

G. Accessory structures such as a tool shed, garden shed, workshop, detached garage or carport, gazebo, pool house and the like.

2.18.2 Conditional use. (as replaced by Ord. #2011-07, June 2011)

A. Billboards subject to the requirements in Section 5.0.

B. Cellular communication towers subject to the requirements in section 3.13.

C. Parking lots. (as added by Ord. #2003-22, Aug. 2003)

2.19 SEX OUTLETS

A. For the purposes of this ordinance, sex outlets and the various types of sex outlets (sex media outlet, sex media exhibition outlet, mini-sex media exhibition outlet, sex entertainment outlet, sex service outlet, and sex accessories outlet) are defined in Section 1.6 Definitions.

B. Sex outlets of any type are not allowed in any zone except as expressly provided herein. Sex outlets that are not in compliance with any other applicable law or ordinance, including any permit or licensing requirement, are not allowed in any zone. Violations of this ordinance are unlawful and subject to penalties provided for in Title 14 Chapter 2 of the Cleveland Municipal Code.

C. No sex outlet of any type shall be located within 750 feet of any of the following protected land uses: any church or house of worship or religious institution such as a seminary or denominational agency except when located in a rented storefront or office suite; public or private licensed daycare or child care center, pre-school, kindergarten, elementary school, middle school or junior high school, or high school; residence or residential zoning district; public park, playground, greenway, recreation center, community center, or public library; private or semi-private recreational facility such as a YMCA, miniature golf course, video arcade, movie theatre, or any other type of recreational use for which at least one-third of the users are persons under age 18 with at least 100 user visits per mouth. No sex outlet of any type shall be located within 1500 feet of another sex outlet; however, this restriction is not intended to prohibit the co-location of more than one type of sex outlet within a common interior space where the requirements of this ordinance are otherwise met. No sex outlet of any type shall be located within 2000 feet of the Interstate 75 right-of-way or within 1000 feet of the intersection of U.S. Highway 64 or Waterlevel Highway and APD-40.

D. For purposes of measuring the required 1500 foot distance between any two sex outlets, the measurement shall he a straight line distance between the front doors of the existing and/or proposed buildings that contain or will contain the sex outlet. For purposes of measuring the required 750 foot distance between a sex outlet and any protected land use, the measurement shall be the straight line distance between the front door of the sex outlet and the nearest entrance of the building occupied by the protected use. However, in the case of a protected land

use that is not primarily contained within a building, e.g. residential zoning district, park, miniature golf course, etc., the measurement shall be the straight line distance from the front door of the sex outlet to the nearest property line of the protected use. With respect to sex outlets and protected land uses that lie within unincorporated Bradley County where a sex outlet is proposed to be located in the City of Cleveland, the separation requirements shall he applied in the same manner as if all of the property were in the city except that a zoning district within unincorporated Bradley County shall not be considered as a protected land use. In the case of a protected land use in a structure that is vacant but not in such a condition that it is or could be condemned for demolition, the distance requirement shall apply if the structure was built or remodeled by more than 50% of its value to serve a protected use.

E. Except as provided herein, no sex outlet of any type shall be located except on property that fronts on specified roadways (specified roadways include APD-40 or a principal arterial street as identified in the subdivision regulations or Wildwood Avenue, or Dalton Pike, or Blue Springs Road, or Old Tasso Road, or Stuart Road) with a minimum lot frontage of at least 100 feet on the specified roadway. Sex outlets on sites of at least two acres in an IL-Industrial Light zone or in an IH-Industrial Heavy zone are exempt from the requirement for frontage on a specified roadway provided that the sex outlet is the only development on the site and the site is not reduced below two acres in size. Nothing herein shall be construed to require the approval of access to specified roadways in a manner inconsistent with any applicable law, regulation, ordinance, policy, or standard.

F. No sex outlet of any type shall be located on a flag lot, in a rear building, in a rear suite, in an upstairs suite, in a basement, facing a side lot line, or in any other manner except a ground floor location that is not obscured from view from the roadway traffic traveling in either direction. Customers shall enter and exit only through a well-lighted and unobscured entrance at the front of the building. Parking areas serving any sex outlet shall be well lighted and shall be arranged such that parked vehicles are clearly visible from the roadway on which the sex outlet is located. No sex outlets of any type shall be located on property having fencing, vegetation above two feet in height, or screening of any type except within three feet of the side or rear property lines but not closer to the front property line than the front entrance.

G. Sex service outlets and Mini-sex media exhibition outlets, including video booths or similar facilities located as an accessory use, are not allowed in any zoning district as either a principally permitted use or as a conditional use. Sex media outlets and sex accessories outlets are principally permitted uses in the CH-Commercial Highway, IL-Industrial Light, and IH-Industrial Heavy zoning districts subject to all requirements of the zoning ordinance. Sex media exhibition outlets are allowed as a principally permitted use in the IL and IH zones. Sex entertainment outlets are principally permitted uses in the IL and IH zones provided that they comply with all applicable laws that prohibit indecent exposure in public, that prohibit performing or offering to perform any sexual activity for any consideration, that prohibit performing any actual or simulated sexual activity in any establishment serving food or beer, or that establish any other requirements such as those in Title 11 Chapter 5 of the Cleveland Municipal Code. No sex outlet of any type is allowed as a conditional use or any accessory use in any zoning district. (as added by Ord. #2004-02, March 2004)

2.20 IGC DISTRICT (Interstate Gateway Corridor)

2.20.1 Purpose and Intent.

The purpose of the IGC, Interstate Gateway Corridor Overlay District regulations is to establish a framework for site planning and design to ensure development of a high quality. These regulations set standards for all development within Interstate Gateway Corridor Overlay District including commercial, residential and office uses. It is the intent of these regulations to establish standards that will be reflective and protective of the community amenities in gateways along or adjacent to Exit 20 and the Spring Branch Industrial Park, Exit 25 and Exit 27 along Interstate 75 to enhance the quality of life for the citizens of Cleveland and Bradley County. It is the intent of the Interstate Gateway Corridor Overlay District regulations to protect and enhance the existing character of the land throughout the district.

The purposes of the Interstate Gateway Corridor Overlay District regulations shall include the following:

(1) encourage high quality development as a strategy for investing in the City's future;

(2) maintain and enhance the quality of life for Cleveland's citizens;

(3) shape the District's appearance, aesthetic quality, and spatial form;

(4) reinforce the civic pride of citizens through appropriate development;

(5) increase awareness of aesthetic, social, and economic values;

(6) protect and enhance property values;

(7) minimize negative impacts of development on the natural environment;

(8) provide property owners, developers, architects, engineers, builders, business owners, and others with a clear and equitable set of regulations for developing land;

(9) enhance the City's sense of place and contribute to the sustainability and lasting value of the City; and,

(10) shape and develop the District in a manner that is beneficial to the entire City.

2.20.2. Permitted Uses.

A. The permitted uses shall be designated as those permitted within the underlying zoning district with the exception of those listed in the following section.

2.20.3. Uses Prohibited.

No use shall be permitted which is inconsistent with the operation of a first-class development. Without limiting the generality of the foregoing, the following uses shall not be permitted:

a. Any "second hand' store, "surplus" store, or pawn shop.

b. Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers or office trailers during periods of construction, reconstruction or maintenance.

c. Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage compactors located near the rear of any building.

d. Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.

e. Any veterinary hospital or animal raising or boarding facility; provided, however, this prohibition shall not be applicable to pet shops.

f. Any establishment selling or exhibiting "obscene" material as determined by final decree of a Court of competent jurisdiction or any establishment classified as a sex outlet by City ordinance.

g. Any establishment selling or exhibiting illegal drug-related paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff.

h. Any gambling facility or operation, including but not limited to: off-tract or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not be applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the Occupant.

(1) Temporary outdoor uses of land:

(a) The following temporary outdoor uses of land shall be prohibited: [1] carnivals [2] circuses [3] fireworks sales [4] Christmas tree sales

(b) Tents shall be permitted within the District provided that a tent shall not be used for retail sales of merchandise. Permits issued for tents shall be valid for a period not in excess of fourteen consecutive days.

(2) Itinerant and/or temporary outdoor sales of retail merchandise shall be prohibited, including but not limited to the following:

(a) sale of vacuum cleaners, fans and other appliances;

(b) sale of rugs, carpets, toys, T-shirts, license plates, velvet paintings and artwork;

(c) sale of landscaping materials not grown on-site;

(d) sale of vegetables and produce not grown on-site;

(e) sale of souvenirs and mementos;

(f) sale of tropical plants, potted plants, and bouquets of flowers;

(g) sale of stone, clay, glass, or concrete figurines;

(h) sale of chairs, sofas, tables, or other furniture; and,

(i) sale of food and beverages.

(3) Outdoor display or sale of merchandise, other than motor vehicles within an authorized facility, is prohibited. Provided, however, an outdoor display of items regularly offered for sale indoors will be permitted on an infrequent and incidental basis. No such items may be displayed within any required landscape area.

(4) Chain link, woven wire, or barbwire fencing shall be prohibited in any required front yard or in any area visible from the public right-of-way. Provided, however, woven wire fence or barbwire fence shall be permitted on land used for agricultural uses when such fencing is used for the keeping of livestock on the property. Provided further that chain link fencing necessary for safety or security during a construction project shall be allowed but it must be removed prior to issuance of a certificate of occupancy.

2.20.4. Site Plan Requirements.

A master site plan containing the following information must be submitted to the Cleveland Municipal Planning Commission prior to any construction or alteration not consistent with the materials, layout or style as presented in any previously approved site plan. Individual structures or buildings may be reviewed and approved by staff if the architectural design is consistent with the master plan. Any discrepancy in interpretation may be reviewed and approved by the Planning Commission.

A. A legal description of the total site and a statement of present and/or proposed ownership.

B. The location and floor area size of the proposed building, accessory structures, or other improvements, including lot lines, building setbacks, building height, adjacent properties by use and ownership, open spaces, parking spaces, streets and utilities.

C. The location and dimensions of all point of proposed vehicular and pedestrian access, exits and circulation.

D. Specify the material proposed for the exterior walls of the building.

E. Identify the location, intensity and direction of all proposed lighting.

F. Specify the location of proposed planted areas and type of vegetation or fencing planned for landscaping and buffers.

Requirements of the City's adopted building codes, fire codes, stormwater regulations and other ordinances affecting the development, use, and maintenance of property shall apply.

2.20.5 Signage.

A master signage plan is to be produced and submitted by the developer for all areas within the IGC District and the parameters of this signage plan include one main entrance sign not to exceed 300 square feet, one ground sign for each individual commercial building not to exceed 150 square feet, wall signage on commercial buildings not to exceed 10% of any front or side facade. No sign shall be mounted on the roof. Portable signs, inflatable advertising devices, strobe lights, and other advertising devices characterized by motion, flashing light, or high-intensity light are prohibited. Except when located within 20 feet of a permanent building, no banner, flag, pennant, temporary sign, or merchandise display shall be located within 100 feet of any public right-of-way.

Billboards.

Billboards are allowed in the IGC District and must comply with section 5.6 of the City of Cleveland Zoning Ordinance.

Billboards are permitted within 660 feet of I-75 the maximum size of the total sign display area shall be the maximum size for billboards set forth in the State of Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising.

2.20.6 Building Placement and Setbacks

A. Unless provided by the Planning Commission, all primary structures along an industrial or major arterial shall be no less than 40 (forty) feet or 30 (thirty) feet for other roadways including local roads or access roads. Side setbacks shall be 5 (five) feet and a rear setback of ten (10) feet.

B. Buildings should be oriented so that cross-access is allowed for ingress and egress across properties whenever feasible.

C. Cul-de-sacs should be avoided whenever possible and connectivity along side streets should be encouraged.

2.20.7 Landscaping, buffers and appearance.

A. In addition to section 3.3 of the Zoning Ordinance regarding Landscaping and Buffers, the following shall apply:

(1) At street entrances and exits planted areas shall be provided that enhance appearance but do not obstruct traffic visibility or create a hazard for pedestrians.

(2) Areas for refuse and trash collection shall be so designated and the containers kept in an enclosed area that will allow adequate trash storage yet prohibit the viewing of the trash collected from adjoining properties or ROW.

B. Appearance:

(1) The exterior of any wall of any building or habitable structure fronting along any public or private roadway shall consist of at least fifty (50) % brick, stone or similar materials.

(2) Metal buildings are not permitted except within any underlying industrial zone.

(3) Large blank walls are not allowed along the front of any primary structure. Walls facing the main corridor shall be recessed or articulated wall surfaces or have at least twenty-five (25) percent of the street level coverage by windows.

(4) Canopies, cornices, pitched roofs and other architectural elements which define the roof are required. All mounted equipment and protrusions should be screened from view from entrances and pedestrian pathways as viewed form on-site ground level. Roof-mounted equipment should be screened from all sides. (as added by Ord. #2014-10, March 2014)

2.21 ISE DISTRICT (Inman St East)

2.21.1 Purpose and Intent.

There is hereby created an Inman St East District ISE which is designed to provide future development which brings value to the existing neighborhood,

builds upon areas of historic significance and creates a high quality gateway into the historic downtown area. The district shall include a mix of uses including retail, and professional facilities without imposing undesirable impacts upon existing residential areas. (as amended by Ord. #2014-36, Oct. 2014)

2.21.2 Permitted Uses.

A. Uses allowed by right in the PI, CN, CG unless prohibited in section 2.21.3. (as amended by Ord. #2014-36, Oct. 2014)

2.21.3 Uses Prohibited.

A. Billboards, off-premise signs, veterinary offices and clinics with outside kennels or runs, residential uses, display and sales of merchandise located outdoors unless explicitly approved by the Planning Commission. (as amended by Ord. #2014-36, Oct. 2014)

2.21.4 Site Sketch Plan Requirements.

A site sketch plan containing the following information must be submitted and approved by the Cleveland Municipal Planning Commission prior to any exterior construction requiring a building permit.

A. A legal description of the total site and a statement of present and/or proposed ownership.

B. The location and floor area size of the proposed building, accessory structures, or other improvements, including lot lines, building setbacks, building height, adjacent properties by use and ownership, open spaces, parking spaces, streets and utilities.

C. The location and dimensions of all point of proposed vehicular and pedestrian access, exits and circulation.

D. Specify the material proposed for the exterior walls of the building.

E. Identify the location, intensity and direction of all proposed lighting.

F. Specify the location of proposed planted areas and type of vegetation or fencing planned for landscaping and buffers. (as replaced by Ord. #2016-30, Aug. 2016)

2.21.5 Off-street parking and loading.

A. The proposed development or use should demonstrate that there is adequate parking available for the proposed use. This may be accomplished through existing or proposed public or private parking spaces or through joint use agreements with nearby facilities. Each parking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width.

B. Parking is encouraged to be located to the rear or side of the primary structure.

C. All loading and unloading facilities shall be located in the rear unless specifically approved by the reviewing board.

2.21.6 Building Placement and Setbacks

A. Unless provided by the Planning Commission, all primary structures are recommended to be located within 20 (twenty) feet, but no closer than 5 (five) feet of any lot line directly adjoining Inman St. There shall be no minimum rear or side setback requirements unless deemed necessary for the public safety by the Planning Commission.

2.21.7 Landscaping, buffers and appearance.

A. In addition to section 3.3 of the Zoning Ordinance regarding Landscaping and Buffers, the following shall apply:

(1) At street entrances and exits planted areas shall be provided that enhance appearance but do not obstruct traffic visibility or create a hazard for pedestrians.

(2) Areas for refuse and trash collection shall be so designated and the containers kept in an enclosed area that will allow adequate trash storage yet prohibit the viewing of the trash collected from adjoining properties or ROW.

B. Appearance:

(1) The exterior of the building should be of materials that will conform to adjacent existing neighborhoods. Brick and stone or similar materials are encouraged.

(2) Large blank walls are discouraged. Recessed or articulated wall surfaces are encouraged as well as windows facing the main corridor. Forty (40) % of the walls for street level businesses are recommended to be windows.

(3) Canopies and other architectural elements which define the roof are encouraged. All mounted equipment and protrusions should be screened from view from entrances and pedestrian pathways as viewed form on-site ground level. Roof- mounted equipment should be screened from all sides.

(4) Unless otherwise provided for in this section or at the discretion of the Planning Commission, all signs shall comply with the sign regulations as described in section 5.0 of the zoning ordinance. (as added by Ord. #2014-13, April 2014)

2.22 EXISTING SALVAGE YARDS AND/OR RECYCLING CENTER BUSINESS WITHIN THE CH ZONE

A. For the purposes of this ordinance, junkyards yards and recycling centers are defined in Section 1.6 Definitions. It is the intent of this section to provide for conditions for the continuance of recycling collection centers and the amortization of salvage yards within the Commercial Highway zone.

B. All areas which my hold, store, sort, or receive any materials or goods for the purposes of supporting a salvage yard or recycling center business must be screened so that the operation is not visible form the front or side view of the property. This includes the requirements of section 13-205 of the municipal code.

C. Notwithstanding the provisions of section 4.7 of the zoning ordinance, no existing salvage yard or recycling center business shall be allowed to continue if it ceases operations or activity for a period of 90 days. For the purposes of this ordinance, cease operations shall be also be constituted by the termination of any business licenses by any business owner. Nor may any such license be transferred to any different individual or corporation for continuance of operation.

D. Any case in which a salvage yard or recycling center business shall operation cease, in no circumstance may it be allowed to be re-established. (as added by Ord. #2016-17, June 2016)

3.0 Site Design Standards.

3.0.1. SITE PLAN SUBMISSION, VESTED PROPERTY RIGHT, DEVELOPMENT PLANS, DEVELOPMENT STANDARDS, AND OTHER TOPICS ADDRESSED IN THE TENNESSEE VESTED PROPERTY RIGHTS ACT OF 2014.

A. General requirements for Site Plans and Development Plans- In circumstances where a site plan is required by the zoning ordinance or other ordinance of the City of Cleveland, the owner or developer shall submit three copies or as many as may be required of his proposed site plan to the Development and Engineering Services at least twenty-one (21) days prior to his or her intended date of site alteration; however, nothing herein shall prohibit the City Manager from establishing time periods of less than twenty-one (21) days for staff review and comment on submitted site plans. The Development and Engineering Services Department manages a site plan review process conducted by a team of City of Cleveland and Cleveland Utilities reviewers representing different development-related functional areas. The site plan review process shall consider the site plan in light of the provisions of this chapter and approve or disapprove same as required (a reviewer comment noting that the plan was "reviewed" is followed by comments indicating changes that are necessary to meet required development standards and gain approval is equivalent to disapproval until those conditions are met with appropriate revisions). A letter from the Development and Engineering Services Director shall be sent to the owner or his agent with the results of the site plan review. The letter shall indicate the approval or disapproval of the site plan, and contain the review comments including but not limited to those comments requiring changes in the site plan prior to approval. Where a site plan is required, approval of the site plan is a requirement for the issuance of any related City permits unless otherwise allowed by ordinance. Where a site plan is required, it must be approved in accordance with the process described herein before vesting would occur.

A site plan is one of the types of development plans that would fall under the Vested Property Rights Act of 2014 but other types of plans described below that are in various circumstances required by the City of Cleveland are also considered development plans under the Vested

Property Rights Act of 2014. For these other types of development plans, where required by other provisions of City of Cleveland ordinances, or by the subdivision regulations of the Cleveland Municipal Planning Commission, or by the rules or procedures of any other board or similar body, regardless of how styled, affecting the development of property which has or may be established by the City of Cleveland consistent with the laws of Tennessee, other review processes, approvals, and signatures may be required. It is intended that these aforementioned requirements particular to any type of development plan would be met prior to any vesting of rights to develop property in accordance with that plan. However, nothing herein is intended to abrogate any vesting of a development right that has occurred by virtue of an approved development plan through a subsequent change in development standards (e.g. through a zoning change or the establishment of a design review board that does not presently exist) unless such change is required by state or federal laws or regulations.

B. Vested Property Rights- the Tennessee General Assembly enacted Public Chapter No. 686, the "Vested Property Rights Act of 2014" which amends Title 13, Chapters 3 and 4, specifically T.C.A. § 13-4-310 regarding the powers of municipal planning commissions. As enacted, far-reaching statutory requirements are established relative to development standards and vested property rights for landowners and developers that will affect the ability of cities to establish and update contemporary development standards to guide land use and growth in the future.

Definitions of Vested Property Rights

"Applicant" means a landowner or developer or any party, representative, agent, successor, or heirs of the landowner of developer.

"Construction" means the erection of construction materials in a permanent manner, and includes excavation, demolition, or removal of an existing building.

"Development plan" means both a preliminary development plan and a final development plan.

"Development standards" means all locally adopted or enforced standards applicable to the development of property including, but not limited to planning: storm water requirements; layout; design; local infrastructure construction standards, off-site improvements, lot size, configuration, and dimensions. NOT

included are standards required by federal or state law, or building construction safety codes.

"Final development plan" means a plan approved by the local government describing with reasonable certainty the use of property. Such plan may be in the form of, but not limited to, a planned unit development plan; subdivision plat; general development plan; subdivision infrastructure construction plan; final engineered site plan; or any other land-use approval designated utilized. UNLESS otherwise expressly provided by the City of Cleveland, such a plan shall include the boundaries of the site; significant topographical features affecting the development of the site; locations of improvements; building dimensions; and the location of all existing and proposed infrastructure on the site. Neither a sketch plan nor other document that fails to describe with reasonable certainty the use and development scheme may constitute a final development plan.

"Preliminary development plan" means a plan submitted to facilitate initial public feedback, and secure preliminary approvals from local government. It serves as a guide for all future improvements.

"Site preparation" means excavation, grading, demolition, drainage, and physical improvements such as water and sewer lines, footings, and foundations.

Vesting Rights and Periods

Vested property rights are established for any preliminary development plan, final development plan (where no preliminary development plan is required), or building permit issued to allow construction of a building to commence where there is no local requirement for prior approval of a preliminary development plan.

During the vesting period, the locally adopted development standards in effect on the date of approval remain the development standards applicable to that property or building during the vesting period as follows:

- Building permit projects (no preliminary plan approval) - The vesting period commences on the date of building permit issuance and remains in effect for the period authorized by the building permit.
- Development plan project - The vesting period applicable to a development plan is three years, beginning on the date of approval of the preliminary development plan; provided the applicant obtains final development plan approval, secure permits, and commences site preparation within the 3-year vesting period.
- If the applicant obtains approval of a final development plan, secures permits, and commences site preparation within the 3-year vesting period, then the vesting period is extended an additional two years (to a total of five years) to commence construction from the date of

preliminary plan approval. During the two year period, the applicant shall commence construction and maintain any necessary permits to remain vested.

- If construction commences within the 5-year vesting period following preliminary development plan approval, the development standards in effect on the date of approval remain in effect until final completion of the project, provided however, that the vesting period shall not exceed ten (10) years unless the City of Cleveland grants an extension through an ordinance or resolution; and provided further that the applicant maintain all necessary permits during the 10-year period.
- Multi-phase projects - A separate vesting period applies for projects proceeding in two or more sections or phases (as set forth in the development plan).The development standards in effect on the date of approval of the preliminary development plan for the first section or phase remain in effect for all subsequent sections or phases; provided the total vesting period does not exceed fifteen (15) years unless the City of Cleveland grants an extension through an ordinance or resolution; and provided that the applicant maintains all necessary permits during the 15-year period.

Type of Project	Effective Date	Vesting Period	Total Vesting Period to Maintain Vested Rights	Required Actions
Building Permit (No development plan required)	Date of Issuance of Building Permit	Period authorized by the building permit	Period authorized by the building permit	Complete construction within period authorized by the building permit
Development Plan				
Preliminary Development Plan	Date of Issue	3 years	3 years	Obtain Final Development Plan approval; secure permits; and commence site preparation
Final Development Plan	3 years from date of Preliminary Plan approval	2 years	5 years	Commence construction, maintain permits
	5 years from date of Preliminary Plan approval	5 years	10 years	Complete construction; maintain permits
Multi-phase or sections	Date of Issue of Preliminary Development Plan	Separate vesting period for each phase or section	15 years	Complete construction for each phase; maintain permits

A vested property right attaches to and runs with the applicable property and confers upon the applicant the right to undertake and complete the development and use such property under the terms and conditions of a development plan, including any amendments thereto or under the terms and conditions of any building permit that has been issued with respect to the property.

Development plans

"Preliminary development plan" means a plan which has been submitted by an applicant and that depicts a single-phased or multi-phased planned development typically used to facilitate initial public feedback and secure preliminary approvals from local governments. Examples of information found on development plans include proposed land uses, density and intensity of development, public utilities, road networks, general location of off-street parking, building location, number of buildable lots, emergency access, open space, and other environmentally sensitive areas such as lakes, streams,

hillsides, and view sheds. An approved preliminary development plan serves as a guide for all future improvements within defined boundaries.

"Final development plan" means a plan which has been submitted by an applicant and approved by a local government describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals:

(i) A planned unit development plan;

(ii) A subdivision plat;

(iii) General development plan;

(iv) Subdivision infrastructure construction plan;

(v) Final engineered site plan; or

(vi) Any other land-use approval designation as may be utilized by the City of Cleveland

Preliminary Development Plans and Final Development Plans shall include the boundaries of the site; significant topographical and other natural features affecting development of the site; the location on the site of the proposed buildings, structures, and other improvements; the dimensions, including height, of the proposed buildings and other structures or a building envelope; and the location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. A variance shall not constitute a final development plan, and approval of a final development plan with the condition that a variance be obtained shall not confer a vested property right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type of use, the intensity of use, and the ability to be served with essential utilities and road infrastructure for a specified parcel or parcels of property may constitute a final development plan.

Approval of a Development Plan

Approval of a development plan, regardless of type described above under the "Development Plan" section, shall occur when the development plan submitted shall be determined by the City of Cleveland to meet all local, state and federal regulations governing the development. The meeting of all regulations governing the development shall include , but not be limited to, items such as any required

stormwater plans, grading plans, sewer plans, utility plans, on-site or off-site mitigation plans, site access plans, shared driveway plans, plans for sidewalks and other improvements such as may be required in the public right-of-way, required permits, easements, bonds for the construction of required infrastructure, and the like, as may be appropriate to that stage of the planning and development process as determined by the City of Cleveland (this is intended to recognize the necessity of phasing in some cases, the progression from preliminary concepts to final designs, and the City of Cleveland's need to gain and maintain an accurate understanding and management of the development's impacts on city resources and the public as the development progresses to completion).

Termination of Vesting Rights

During the vesting period, the locally adopted development standards which are in effect on the date of approval of a preliminary development plan or the issuance of a building permit, whichever applies, remain the development standards applicable to the property described in such preliminary development plan or permit, except such vested property rights terminate upon a written determination by the City of Cleveland under the following circumstances:

- When the applicant violates the terms and conditions specified in the approved development plan or building permit; provided, the applicant is given ninety (90) days from the date of notification to cure the violation; provided further, that the City of Cleveland may, upon a determination that such is in the best interest of the community, grant, in writing, an additional time period to cure the violation;
- When the applicant violates any of the terms and conditions specified in the local ordinance or resolution; provided, the applicant is given ninety (90) days from the date of notification to cure the violation; provided further, that the City of Cleveland may, upon a determination that such is in the best interest of the community, grant, in writing, an additional time period to cure the violation;
- Upon a finding by the City of Cleveland that the applicant intentionally supplied inaccurate information or knowingly made misrepresentations material to the issuance of a building permit or the approval of a development plan or intentionally and knowingly did not construct the development in accordance with the issued building permit or the approved development plan or an ap-proved amendment for the building permit or the development plan; or
- Upon the enactment or promulgation of a state or federal law, regulation, rule, policy, corrective action or other governance, regardless of nomenclature, that is required to be enforced by the City of Cleveland and that precludes development as contemplated in the

approved development plan or building permit, unless modifications to the development plan or building permit can be made by the applicant, within ninety (90) days of notification of the new requirement, which will allow the applicant to comply with the new requirement.

The City of Cleveland may allow a property right to remain vested despite such a determined occurrence when a written determination is made that such continuation is in the best interest of the community by the City of Cleveland.

Development Standards Enforcement

A vested development standard shall not preclude city enforcement of any development standard when:

- The City of Cleveland obtains the written consent of the applicant or owner;
- The City of Cleveland determines, in writing, that a compelling, countervailing interest exists relating specifically to the development plan or property which is the subject of the building permit that seriously threatens the public health, safety or welfare of the community and the threat cannot be mitigated within a reasonable period of time, as specified in writing by the City of Cleveland, by the applicant using vested property rights;
- Upon the written determination by the City of Cleveland of Cleveland of the existence of a natural or man-made hazard on or in the immediate vicinity of the subject property, not identified in the development plan or building permit, and which hazard, if uncorrected, would pose a serious threat to the public health, safety, or welfare and the threat cannot be mitigated within a reasonable period of time, as specified in writing by the local government, by the applicant using vested property rights;
- A development standard is required by federal or state law, rule, regulation, policy, corrective action, order, or other type of governance that is required to be enforced by the City of Cleveland, regardless of nomenclature; or
- A City of Cleveland is undertaking an action initiated or measure instituted in order to comply with a newly enacted federal or state law, rule, regulation, policy, corrective action, permit, order, or other type of governance, regardless of nomenclature.

Development Plan Amendment

An amendment to an approved development plan by the applicant must be approved by the City of Cleveland to retain the protections of the vested property right. An amendment may be denied based upon a written finding by the City of Cleveland that the amendment:

- Alters the proposed use;
- Increases the overall area of the development;
- Alters the size of any nonresidential structures included in the development plan;
- Increases the density of the development so as to affect traffic, noise or other environmental impacts; or
- Increases any local government expenditure necessary to implement or sustain the proposed use.

If an amendment is denied by the City of Cleveland based upon such a written finding, then the applicant may either proceed under the prior approved plan with the associated vested property right or, alternatively, allow the vested property right to terminate and submit a new application. Notwithstanding the foregoing, a vested property right shall not terminate if the City of Cleveland determines, in writing, that it is in the best interest of the community to allow the development to proceed under the amended plan without terminating the vested property right.

Waiver Rights Prohibited

A City of Cleveland may not require an applicant to waive the applicant's vested rights as a condition of approval, or as a consideration of approval, of a development plan or the issuance of a building permit.

Extension of Rights

The vesting period for an approved construction project may be extended as deemed advisable by the City of Cleveland.

Zoning with Vested Property Rights

A vested property right, once established, precludes the effect of any zoning action by a City of Cleveland which would change, alter, impair, prevent, diminish, or otherwise delay the development of the property, while vested, as described in an approved development plan or building permit. With said exception, nothing shall preclude, change, amend, alter or impair the authority of a City of Cleveland to exercise its zoning authority.

Development Moratorium

In the event a City of Cleveland enacts a moratorium on development or construction, the vesting period established by this act shall be tolled during the moratorium period.

Eminent Domain with Vested Property Rights

A vested property right does not preclude, change, amend, alter or impair the authority of a City of Cleveland to exercise its eminent domain powers as provided by law. (as added by Ord. #2014-45, Dec. 2014)

3.1 Lot Area and Dimensions and Maximum Allowable Density.

3.1.A. Table 2 below sets forth the minimum lot area and minimum lot width for uses in zoning districts, except PUD districts numbered PUD1 and higher where development standards are determined by the PUD ordinance.

Table 2
Lot Area & Width Requirements

Zoning District		**Lot Area[2] (Square Feet)**	**Lot Width (Feet) at the Building Setback Line**
R-A	Residential Agriculture	7,500 sf	75 feet
R-I	Single-family Residential	7,500 sf	75 feet
R-2	Low Density Single and Multi-family Residential	5,000 sf (single family) 7,500 sf (duplex) 10,000 sf (triplex) 12,500 sf (quadruplex)	50 feet 75 feet 75 feet 75 feet
3	Multi-family Residential	7,500 sf for the first unit + 2,500 sf for each additional unit	75 feet
R-4	Mobile Home Parks	Section 2.6.4	Section 2.6.4

R-5	High Rise Residential	7,500 sf with additional area requirements per unit: 1 bedroom: 570 sf 2 bedrooms: 750 sf 3 or more Bedrooms: 930 sf	75 feet
CN	Neighborhood Commercial	7,500 Sf 15,000 - corner Lots	50 feet 100 feet - corner lots
PI	Professional and Institutional	7,500 sf	75 feet
CG	General Commercial	7,500 sf 9,250 sf - corner lot	75 feet 100 feet - corner lot
CH	Highway Commercial	7,500 sf	100 feet
CBD	Central Business District	None	None
MU	Mixed use	7,500 sf	75 feet
IL	Light Industry	7,500 sf 15,000 sf - corner lot	75 feet
HI	Heavy Industry	10,000 sf	100 feet

B Buffer	7,500 sf	
UC University Campus	R2 or R3 requirements except for dormitory dwelling units where an alternative design may be approved, including alternatives for parking, greenspace (R3 minimum), etc. that are demonstrated to be adequately met off-site consistent with a master plan. Campus oriented apartment housing may also submit an alternative design for consideration.	25 feet (front yard), making the side yard 10 ft for the first story plus 2 ft for each additional story for principal structures and 5 ft for accessory structures, making the rear yard 20 ft for principal structures and 5 ft for accessory structures, making the maximum building height 5 stories or 55 ft., and making the maximum impervious surface area 65%
IGC Interstate Gateway Corridor	7500	50
ISE Inman St East	None	None
[2]A lot of record may be a minimum of 3,000 square feet for a residential use.		

(as replaced by Ord. #2009-49, June 2009, and amended by Ord. #2014-10, March 2014, and Ord. #2014-13, April 2014)

3.1.B. Maximum Allowable Density

Where requirements are otherwise met, this ordinance generally allows for the development of multiple structures on a common site. For multiple buildings on a common site or for a subdivision of two or more lots, the maximum allowable density is a function of the required minimum lot size. R1 and RA land cannot exceed a maximum of 1 residential unit per 7500 square feet, including any common open space if developed as a cluster subdivision. R2 land, or land in any other zoning district where allowed to be developed residentially at R2 standards cannot exceed one (1) unit per five thousand (5,000) square

feet for single family, or two (2) units per seven thousand five hundred (7,500) square feet for duplex structures, or three (3) units per ten thousand (10,000) square feet for triplex structures, or four (4) units per twelve thousand five hundred (12,500) for quadruplex structures, including any common open space if developed as a cluster subdivision, townhouse subdivision, or other type of development. R3 land, or land in any other zoning district where allowed to be developed residentially at R3 standards, requires seven thousand five hundred (7,500) square feet for the first unit and two thousand five hundred (2,500) feet for each additional unit on the same lot or parcel regardless of structure type, adjusted for any common open space if developed as a cluster subdivision, townhouse subdivision, or other type of development. As an alternative where a lot otherwise allowed to be developed residential at R3 standards is less than 1 acre that and is not a flag lot, if designed to include a minimum 5 foot greenspace buffer area along the lot's street frontage except for not more than 2 driveways not exceeding 24 feet in width for both driveways, and otherwise meeting the landscaping and buffering requirements of zoning and stormwater ordinances, can be designed to the R2 density standard. R4 residential development density is regulated by the standards for mobile home parks and subdivisions. R5 residential development must provide adequate parking and otherwise conform to the requirements of the R5 district. Density for residential development in the UC zone is to be guided by Table 2. Residential development in mixed use development projects, such as with ground floor commercial with residential above, shall provide adequate parking and otherwise be governed by the height, lot coverage, and setback requirements of the zoning district in which they are located. Non-residential development does not have a density limit, but the intensity of the use in terms of its overall developed floor area is restricted by height, setback, lot coverage, greenspace, parking requirements, and other requirements of the zoning and stormwater ordinances.

In any zone where multi-family residential uses are permitted, the Board of Zoning Appeals may grant approval of the R5 density standards as a conditional use where appropriate. The same considerations outlined in section 1.7.2 of the zoning ordinance shall be applied. (as added by Ord. #2009-49, June 2009, and amended by Ord. #2017-16, May 2017)

3.2 Setbacks, building heights and lot coverage standards.

A. The Table below shows site design requirements for each zoning district. Shown are maximum building heights, minimum building setbacks, and maximum impervious surface coverage. In the case of lots within a cluster subdivision the required pervious area or greenspace for the lots are intended to be met in part through common open space within the subdivision. Apart from cluster subdivisions, for any lot, tract, or parcel that is developed, the owner may provide up to 25% of the required pervious area or greenspace on a perpetual easement for such pervious area or greenspace that is located on an adjoining lot, tract, or parcel but the area of the easement shall not be counted toward the pervious area or greenspace requirement for the lot, tract, or parcel on which the easement is located

Table 3
Building Setbacks, Heights, and Impervious Surfaces

Zoning District	**Minimum Setbacks (feet)**			**Maximum Building Height**	**Minimum Green Space**	**Maximum Impervious Surface**
	Front Yard	*Side Yard*	*Rear Yard*			
R-A	25 ft	10 ft (principal) 5 ft (accessory)	15 ft (principal) 5 ft (accessory)	35 feet	0.65	0.35
R-1	25 ft	10 ft (principal) 5 ft (accessory)	15 ft (principal) 5 ft (accessory)	35 feet	0.40	0.45
R-2	25 ft	10 ft (principal) 5 ft (accessory)	15 ft (principal) 5 ft (accessory)	35 feet	0.40	0.50
R-3	25 ft (principal)	10 ft (principal) 5 ft (accessory)	15 ft (principal) 5 ft (accessory)	70 feet	0.25	0.70
R-4	Sec 4.6	Section 4.6	Section 4.6	Section 4.6	Section 4.6	Section 4.6

Zoning District	Minimum Setbacks (feet)			Maximum Building Height	Minimum Green Space	Maximum Impervious Surface
	Front Yard	*Side Yard*	*Rear Yard*			
R-5	25 ft.	10 ft	15 ft	85 ft.	0.40	0.60
B[1]	25 ft.	10 ft for the 1st story + 2 ft for each additional story (principal) 5 ft (accessory)	20 ft (principal) 5 ft (accessory)	35 ft.	0.80	0.20
CN	15 ft.	10 ft.	10 ft.	25 ft.	0.25	0.75
PI	30 ft for single story buildings less than 20 feet tall, and 20 ft plus 3 ft for each 10 ft, or fraction thereof, of building height above the first 10 ft	10 ft plus 3 ft for each 10 ft, or fraction thereof, of building height over the first 10 feet (principal); 5 ft (accessory)	10 ft plus 3 ft for each 10 ft, or fraction thereof, of building height over the first 10 ft (principal); 5 ft (accessory)	70 ft.	0.25	0.75
CBD	None	None	None	55 ft.	None	None
CH	50 ft.	20 ft (principal); 5 ft (accessory)	20 ft (principal); 5 ft (accessory)	50 ft.	0.25	0.75

Zoning District	Minimum Setbacks (feet)			Maximum Building Height	Minimum Green Space	Maximum Impervious Surface
	Front Yard	*Side Yard*	*Rear Yard*			
MU	30 ft.	15 ft. (principal); 5 ft (accessory)	15 ft. (principal); 5 ft (accessory)	65 ft.	0.25	0.75
IL	30 ft.	20 ft. (principal); 5 ft (accessory)	20 ft. (principal); 5 ft (accessory)	50 ft.	0.10	0.90
IH	40 ft.	25 ft. (principal); 5 ft (accessory)	25 ft. (principal); 5 ft (accessory)	50 ft.	0.10	0.90
UC	25 ft.	10 ft for the 1st story + 2 ft for each additional story (principal) 5 ft (accessory)	20 ft (principal) 5 ft (accessory)	55 ft.	0.35	0.65
IGC	40** 30	5	10	65		.80
ISE	None*	None	None	55		None

*Suggested setbacks are provided for in section 2.21.6.A

**See district description

[1]All site design requirements are subject to all requirements in Section 2.18 of this Zoning Code. (as amended by Ord. #3, Nov. 1998, Ord. #13, March 2001, Ord. #2003-22, Aug. 2003, Ord. #2005-04, March 2005, Ord. #2007-02, Jan. 2007, and Ord. #2008-02, Jan. 2008, and replaced by Ord. #2009-49, June 2009, and amended by Ord. #2011-24, Nov. 2011, Ord. #2014-10, March 2014, Ord. #2014-13, April 2014, and Ord. #2017-26, July 2017)

B. Exceptions to height requirements.

(1) The height limitations do not apply to spires, belfries, cupolas, water tanks, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level and not intended for human occupancy. Where necessary to accommodate the design of a manufacturing or warehousing facility, zoning height restrictions are waived to the extent necessary to accommodate the storage, handling, manufacturing, or assembly of materials and products as determined by the Director in consultation with the owner.

(2) The minimum lot area requirements do not apply for properties located in the CH Commercial Highway when the proposed lot is not intended to support a use designed for human occupancy, including but not limited to cell towers, billboards, public utility stations and the like. The proposed aforementioned lots shall be reviewed by the Planning Commission and a note shall be placed on the plat stating the lot is unsuitable for structures intended for human occupation. (as amended by Ord. #2013-16, April 2013, and replaced by Ord. #2013-46, Oct. 2013)

C. Additional yard requirements.

(1) In computing the depth of a rear yard for any building where such yard opens onto an alley, one-half of such alley may be assumed to be a portion of the rear yard.

(2) Each part of a required yard shall be open and unobstructed from the lowest point to the sky, except for the ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves. However, none of such projections shall project into a yard more than thirty six (36) inches.

D. Requirements for corner lots.

(1) A development proposed on a corner lot shall designate which street frontage shall be the front orientation.

(2) The required lot width shall be measured along the building setback for the frontage designated as the front of the lot. In no case shall a street frontage be designated as the front where the lot width would be nonconforming and where the other street frontage conforms to the lot width requirement.

(3) It is intended that the front yard setback be applied to both street frontages subject to the exceptions described herein. It is not intended that the application of any rule or exception regarding corner lots would result in a setback on an arterial or collector street that is less than 30 feet. In residential zoning districts where the lot width is less than 75 feet for most of the lots depth or length, the setback on the side with the longest street frontage is reduced to 15 feet for one- and two- family structures. On the side of a corner lot that would otherwise require a front setback but which has not been designated as the front of the lot, a front setback shall not be required where the right-of-way width of the adjoining street is less than 20 feet. Nothing in this section shall require any structure located within an ISE (Inman St-East) zoning district to have a setback of greater than 5 (five) feet for the lot line adjoining Inman St.

(4) Accessory structures shall not be located between the building and the streets, except one garage or carport not exceeding 24 feet in width when located so as to conform with the required street-side setback for the principal structure. (as amended by Ord. #2007-51, Dec. 2007, and Ord. #2014-13, April 2014)

E. Multiple Residential Structures on Common Sites and Residential in Commercial Zones (CH and CG).

This subsection addresses development of multiple residential structures on a common site where the underlying land is to remain under the ownership of one person or entity. It also addresses the case of one or more residential structures

built on a site in a commercial zoning district (CH and CG). In these cases, the requirements of Table 2 "LOT AREA & WIDTH REQUIREMENTS" and Table 3 "SETBACKS, BUILDING HEIGHTS & LOT COVERAGE STANDARDS" are to be interpreted differently than in the case of a single building on a single lot with respect to residential density, building footprint area, setbacks and spacing between buildings, and ancillary buildings and uses. In residential zoning districts where more than one structure is to be built on a single lot or site, the minimum lot area requirements need to be interpreted as the maximum allowable density for residential uses. The R1 district allows only single-family structures at unit per 7,500 square feet. The R2 district allows 1 unit per 5,000 square feet for single family, two units per 7,500 square feet for duplex structures, 3 units per 10,000 square feet for triplex structures, and four units per 12,500 for quadruplex structures. The R3 district requires 7,500 square feet for the first unit and 2,500 feet for each additional unit regardless of structure type. Where residential uses are otherwise allowed to be built in commercial zoning districts (CH or CG), the density requirement shall be that which is applicable in the R3 district but the setback and impervious area requirements shall be those otherwise applicable in the commercial zoning district (nothing herein shall be construed to reduce other site design requirements for parking, etc.). Height restrictions and other requirements with City ordinances will limit the total floor area that can be developed within a given site. Separation between buildings within the development is not addressed by the setback requirements of the zoning districts but the separation shall meet the requirements of the building code and otherwise conform to requirements of the site plan review process. The setbacks otherwise required by the zoning district will be maintained along all public streets and, together with any required buffer area, along property lines external to the development. (as amended by Ord. #2007-48, Jan. 2008)

F. Limitation on Location of Accessory Structures

Accessory structures shall in no way be located on any property so as to obstruct any utility or drainage easement, or so as to impair site distances for traffic ingress or egress on the same property or adjoining property as determined by the City's traffic engineer or director of public works.

G.[1] Where a property owner and/or developer can demonstrate that no other applicable code is violated, including but not limited to site planning standards in Section 3.0 of the zoning regulations and the

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[1]This subsection was designated in Ord. #2005-15 as "F" however; Ord. #2005-04 added subsection F and the compiler changed this subsection to "G."

provisions of this section, certain minor encroachments into required yards or setbacks, enumerated below, are permitted. It is not intended that such minor encroachments into required yards or setbacks be allowed where the result would be to diminish the quality of what would otherwise be provided in the development of the site in terms of traffic circulation, parking, public safety, drainage, landscaping, and provision of utilities and other services. In order that it may be determined by the Planning Director (Community Development Director), in consultation with the site plan review team, whether a proposed minor encroachment into a required yard or setback is of the type permitted by this section, the property owner and/or developer shall provide a survey of the property indicating property lines, the location of all proposed buildings and drives, adjacent streets and their geometry, building lines on adjacent developed properties, and the location of utilities and drainage structures on and within 200 feet of the subject property. The Planning Director may require any such additional building plans or elevations as he or she deems necessary in order to reach a decision. A fee of one-hundred dollars ($100) shall be assessed for the review of a proposed minor encroachment into a required yard or setback under this section, except as otherwise noted below. The Planning Director shall produce a written record documenting the determination made and the reasons for the determination in each case submitted under this section. Where a determination is made that the minor encroachment is permitted under this section, the specific area of the permitted minor encroachment is to be documented. Determinations of the Planning Director under this section are subject to appeal to the Board of Zoning Appeals in the same manner as other administrative decisions made under this ordinance. The provisions of this section apply to the following types of minor encroachments into required yards or setbacks, except as provided below:

(1) Awnings and canopies extending into required front, side, or rear yards or setbacks are allowed provided that these do not exceed 20 feet in height, provided that they are open from the ground up except where connected to the building for at least 75% of their height and 90% of their length provided that their total length does not exceed 30 feet, provided that they do not extend into any easement or within 5 feet of any side or rear property line or within 10 feet of any front property line, and provided that they otherwise comply with the requirements of this section.

(2) Where a required yard abuts a public greenway, or a controlled access highway in an area where it cannot be accessed, or an area zoned B-Buffer, encroachments of up to 50% of the required setback is permitted provided that such encroachments otherwise comply with the requirements of this section.

(3) Where the perimeter of a building footprint (including the building with awnings, canopies, porches, decks, patios, and heating/air conditioning equipment pads) is within the building envelope formed by the required yard or setback lines for 75% of its length, an encroachment is approved not exceeding 20% of the required setback but not to within nine (9) feet of any property line, provided that such encroachments otherwise comply with the requirements of this section.

(4) Roof overhangs of two (2) feet or less; the width brick or other siding material when installed in the customary manner; and protrusions including chimneys, bay windows, heating and air conditioning units, window boxes, ornamental balconies, "bump outs" and the like not exceeding a combined footprint of 30 square feet of encroachment in any required yard; and pedestrian bridges, conveyor systems, and the like connecting buildings on adjoining properties when otherwise built in compliance with applicable codes and site planning requirements, shall not be considered to violate setbacks and are permitted. Encroachments permitted under this subsection (4), when consisting entirely of roof overhangs of two (2) feet or less and/or the width of brick or other siding material as customarily installed, and/or heating and air conditioning units do not require the submission of a survey or the payment of the one hundred ($100) fee for review.

H. In order to maintain the appearance of existing residential subdivisions that are annexed into the City of Cleveland, residential development on subdivision lots that were platted prior to annexation into the City Of Cleveland will be allowed to have a setback with respect to a local street that is the setback found on the plat or the

typical prevailing setback among nearby residences but not less than 20 feet for a front setback. The same rule shall apply also to resubdivisions of existing lots in such subdivisions.

I. Application of Setback, Minimum Green Space and Maximum Impervious Surface Requirements in Table 3 (Table 3 requirements apply unless otherwise stated below, or otherwise modified in a manner provided for in the zoning ordinance):

An R2-zoned residential lot under 1 acre that is not a flag lot, if designed to include a minimum 5 foot greenspace buffer area along the lot's street frontage except for not more than 2 driveways not exceeding 24 feet in width for both driveways, and otherwise meeting the landscaping and buffering requirements of zoning and stormwater ordinances, can be designed to 65% impervious area and 35% greenspace, the Table 3 limits notwithstanding.

Where there are multiple RA, R1, R2, or R3 lots, each under 1 acre, to be developed on an existing or proposed local street, alternative setbacks, greenspace and impervious requirements may be granted in a design plan approved by the Cleveland Municipal Planning Commission based upon innovative design elements such as shared driveways, rear parking, pedestrian street amenities, zero lot-line designs; accommodation of site constraints (slopes, wetlands, unusual easements, buffering needs, etc.). This provision may be used in conjunction with conventional subdivisions or with alternatives (cluster, townhome) but nothing herein is intended to change the density limitation within the zoning district. The reductions in setbacks or greenspace will be proportional to the benefits of the design innovations for the development and the surrounding community. Porous paving materials and other innovative drainage and stormwater treatment features and additional landscaping and buffering and the like can be considered in the design.

For development on an RA, R1, R2, or R3 lot under one acre that is not part of a special development (a cluster subdivision, townhome subdivision, PUD, infill development or other alternative design plan approved by the Planning Commission) the Community Development Director, in consultation with the Public Works Director, may approve a setback, greenspace, or impervious area limit deviation of up to one-half of the amount otherwise required if it is necessary to improve the design of the development to account for contingencies such as an oddly shaped lot, slopes, improved building orientation on the site, privacy and buffering, tree preservation, parking needs, better

handicapped accessibility, consideration of cost constraints for low- and moderate-income affordable housing, protection of views, access protection, protection of streams, wetlands, etc. It is intended that a reasonable justification for the deviation is to be documented and that the deviation would be the minimum necessary to overcome the particular conditions described. It is further intended that the proposed design demonstrate some accommodation to the site conditions to reach a reasonable solution that balances design constraints with the amount of deviation allowed. Where the lot falls within one of the aforementioned special development categories, the same process may be followed except that the deviation is limited to one-third of the amount of setback, greenspace, or impervious area limit otherwise required. In evaluating the extent of deviation(s) to be approved, proposed conditions may also be approved that would include innovations such as the use of porous paving materials, other innovative drainage and stormwater treatment features, additional landscaping and/or buffering, and the like. (as amended by Ord. #17, Oct. 2001, Ord. #2005-04, March 2005, Ord. #2005-15, May 2005, Ord. #2005-41, Nov. 2005, Ord. #2008-01, Jan. 2008, and Ord. #2009-49, June 2009)

3.3 LANDSCAPING & BUFFERING REQUIREMENTS

A. Landscaping

The following requirements shall apply to all multi-family residential uses, mobile home parks, commercial and office developments:

(1) Landscaping shall be integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, shrubs, ground cover, perennials, annuals, art, and the use of building and construction materials in a manner that respects the natural topographic features, natural resources of the site, and existing vegetation to the greatest extent practicable. The use of existing native species of plant material is strongly encouraged in landscaping and buffers. Existing natural ground cover and trees should be retained where possible by avoiding scraping, grading and sodding within the landscaped buffer. Where additional trees or shrubs are required in an existing natural area, it should be done in a manner which minimizes the disturbances to native species.

(2) A detailed landscape plan shall be submitted with the site plan when requesting a building permit.

(3) Landscaping shall be integrated into parking areas, buffer areas and open spaces. The design shall maximize the visual effect to motorists and adjacent properties.

(4) Landscaping in parking lots and perimeter planting areas shall meet the requirements of the City of Cleveland's Section 18-307 stormwater regulations as to types of plants, numbers of plants, planting location and density, size and spacing of landscape areas, and irrigation and maintenance of landscaping. Developments that are less than one acre and which are not considered to be part of a larger common plan of development under the stormwater regulations Section 18-304, are also exempt from these zoning requirements for landscaping except that the buffer requirements below must be met. Landscape plantings used to meet buffering requirements may count toward the landscape requirements for perimeter and/or parking lot to the extent that these requirements are met by the buffer landscaping.

B. Buffers

It is the intention of this ordinance that land uses of lesser intensity shall be buffered from land uses of higher intensity, that the amount of the required buffering shall be determined in consideration of the difference in the intensity of the two adjoining uses, and that some options shall be provided to developers in determining how to meet buffer requirements in view of site conditions. Specifically, these regulations are intended to mitigate the impacts of noise, dust, debris, light, etc., where such impacts arise due to differences in neighboring land uses. The terms "use" or "uses" in this section refer to types of land uses (residential, commercial, etc.) that are proposed or which exist or which are allowed in a particular zoning district.

(1) For purposes of this buffering section the intensity of uses is determined as follows: Negligible (N) includes single-family residential dwellings; Low (L) includes two-family residential dwellings and uses lawful in

the PI zoning district except any use with a drive-through service and not including any PI development requiring 100 or more parking spaces; Medium (M) includes other residential uses not otherwise classified, other uses allowed in the PI, UC, or R3 district not otherwise classified, and commercial (CN, CG, or CH) development excluding automotive repair and outdoor recreation, and excluding any such commercial use requiring more than 100 parking spaces; Heavy (H) includes commercial (CN, CG or CH) not otherwise classified, and IL uses; and Very Heavy (V) includes IH uses.

(2) Buffers are of the following types: Type A is a heavily wooded area of natural vegetation at least 50 feet in width that is approved by the Urban Forester as being generally free of invasive exotic plants and fulfilling the equivalent buffering function of another buffer type that is acceptable between the two uses (may also be approved with supplemental fence and/or plantings as approved by the Urban Forester with or without a possible reduction in width to not less than 25 feet); Type B is a 20 foot buffer with one row of evergreen trees on 10 foot centers and shade trees on 35 foot centers (buffer width may reduced to 15 feet with the addition of a 8 foot solid wood fence) , but for existing lots of record created prior to final passage of this landscape buffer ordinance the Type B buffer is reduced to 15 feet without the fence or 10 feet with a 6 foot fence if a side or rear lot line(s) of the property is less than 225 feet; Type C is a 25 foot buffer with one row of evergreen trees on 10 foot centers and shade trees on 35 foot centers and a row of evergreen shrubs on 5 foot centers (buffer width may reduced to 20 feet with the addition of a 8 foot solid fence or a second row of evergreen trees staggered with the first row), but for existing lots of record created prior to final passage of this landscape buffer ordinance the Type C buffer is reduced to 20 feet without the fence or 15 feet with a 6 foot fence if a side or rear lot line(s) of the property is less than 225 feet; Type D is a 30 foot buffer with a row of shade trees on 35 foot centers, two staggered rows of evergreen trees on 12 foot centers, and a row of

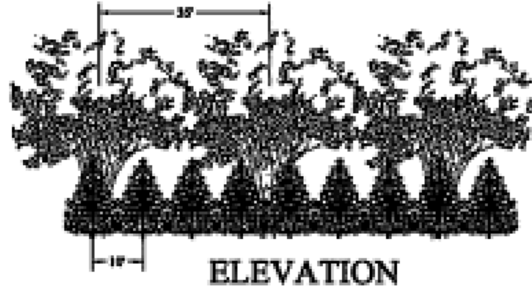
evergreen shrubs on 5 foot centers with an 8 foot solid fence; and a Type E is a 40 foot buffer with two staggered rows of shade trees on 35 foot centers, two staggered rows of evergreen trees on 10 foot centers and a row of evergreen shrubs on five foot centers and an 8 foot solid wooden fence. The Urban Forester may approve an additional reduction of up to 5 feet in any Type A, B, C, D buffer where a masonry wall 6 to 8 feet in height (faced with stone, brick, or cut faced block) is used in lieu of a solid wooden fence or where a planting berm at least 4 feet high is incorporated into the design. The Urban Forester may approve an alternative design that incorporates a stormwater detention facility, wetland, required stream buffer, or utility or pipeline easement or right-of-way, in an area affected by such a feature provided that the quality of the buffering effect is maintained. Where a B-Buffer zone is implemented between two adjoining zoning districts or uses, it is intended that such B zone be at least as wide as the buffer otherwise required by this ordinance and that it provide the same buffering features in the same amounts that are otherwise required (plantings, fences, berms, walls), however the Urban Forester may approve an alternative design where such B zone is wider than the buffer that is otherwise required. Where a solid wood fence is included as part of a buffer it shall be constructed in a sturdy and workman -like manner using pressure treated wood designed for the construction of privacy fences with tightly spaced vertical slats of 8 inches or less in width. The specifications for plant materials to be used in buffers are a minimum 1.5" diameter dbh for shade trees, minimum 6' tall for evergreen trees, and 7 gallon size for shrubs with a minimum height of 24' to 30"; all plant materials are to be healthy and properly planted, watered and otherwise maintained to ensure survival and growth. The requirements for each buffer type are summarized in the table below and illustrations of possible buffers meeting the B,C, D, and E requirements follow:

BUFFER TYPE DESCRIPTION TABLE						
	BUFFER WIDTH AND CONTENT	NORMAL WIDTH	CONTENT FOR NORMAL WIDTH	REDUCED WIDTH	CONTENT FOR REDUCED WIDTH	BONUS WIDTH REDUCTION
BUFFER TYPE						
A		50'	Heavy natural woods, free of pest plants, equivalent to B or C depending on requirement for property. Requires Urban Forester approval	As low as 25' depending on Urban Forester review	Supplemental plantings and/or fence. More supplement required to get higher reduction in width. Requires Urban Forester approval	Additional 5' with construction of 6' to 8' masonry wall in lieu of fence (must be cut block, brick, or stone on face) or a 4' planting berm
B		20' but for existing lots of record created prior to final passage of this landscape buffer ordinance 15' if side or rear lot line is less than 225'	1 row evergreen trees on 10' centers, shade trees on 35' centers	15' but for existing lots of record created prior to final passage of this landscape buffer ordinance 10' if side or rear lot line is less than 225'	Normal content plus 8' solid wood fence but for existing lots of record created prior to final passage of this landscape buffer ordinance fence may be 6' high if side or rear lot line is less than 225'	Same as A
C		25' but for existing lots of record created prior to final passage of this landscape buffer ordinance 20' if side or rear lot line is less than 225	1 row evergreen trees on 10' centers, shade trees on 35' centers, and 1 row evergreen shrubs on 5' centers	20' but for existing lots of record created prior to final passage of this landscape buffer ordinance 15' if side or rear lot line is less than 225'	Normal content plus a 8' solid wood fence (but for existing lots of record created prior to final passage of this landscape buffer ordinance fence may be 6' high if side or rear lot line is less than 225') or a second row of evergreen trees staggered with the first row	Same as A

BUFFER TYPE DESCRIPTION TABLE						
	BUFFER WIDTH AND CONTENT	NORMAL WIDTH	CONTENT FOR NORMAL WIDTH	REDUCED WIDTH	CONTENT FOR REDUCED WIDTH	BONUS WIDTH REDUCTION
BUFFER TYPE						
D		30'	A row of shade trees on 35' centers, 2 staggered rows of evergreen trees on 10' centers, and a row of evergreen shrubs on 5' centers, and an 8' solid fence	NA	NA	Same as A
E		40	2 staggered rows of shade trees on 35' centers, 2 staggered rows of evergreen trees on 10' centers, and a row of evergreen shrubs on 5' centers, and an 8' solid fence	NA	NA	NONE

EXAMPLES OF TYPE B BUFFER ZONES

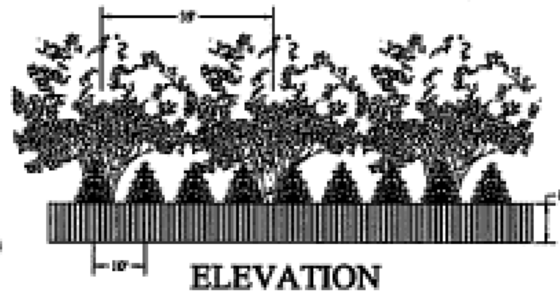
NORMAL TYPE B



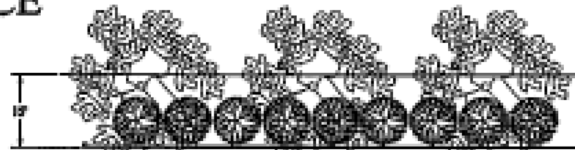
ELEVATION

PLAN

REDUCED TYPE B W/ FENCE



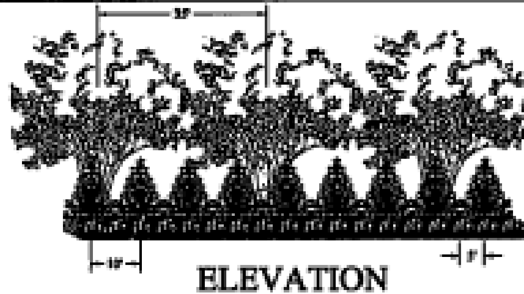
ELEVATION

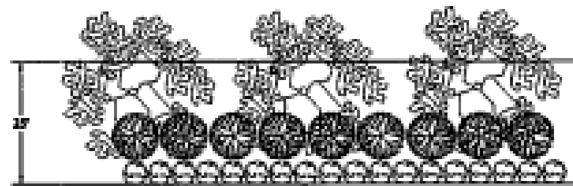


PLAN

EXAMPLES OF TYPE C BUFFER ZONES

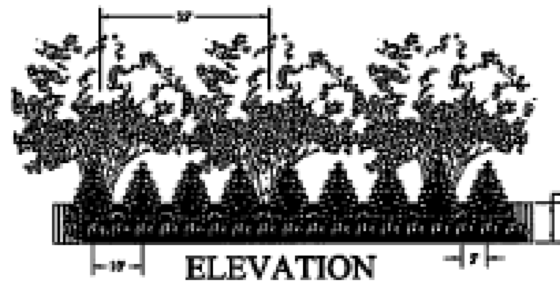
NORMAL TYPE C





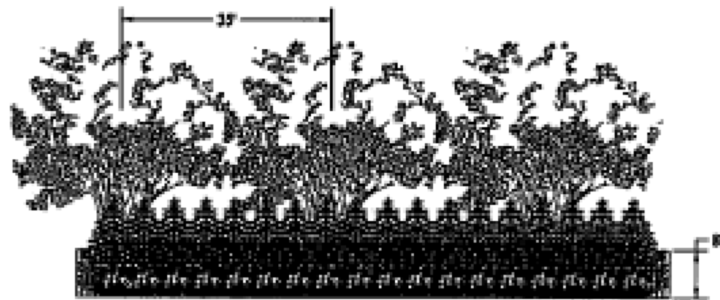
PLAN

REDUCED TYPE C W/ FENCE

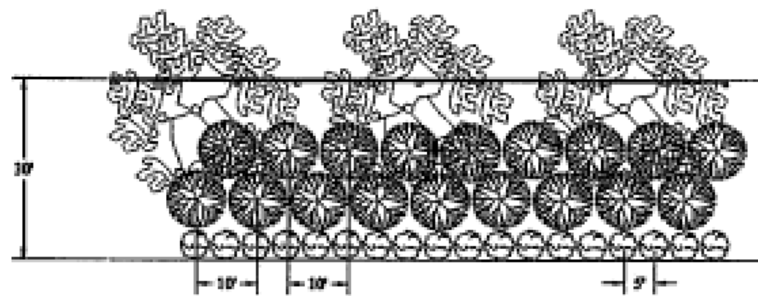


PLAN

EXAMPLE OF TYPE D BUFFER ZONE



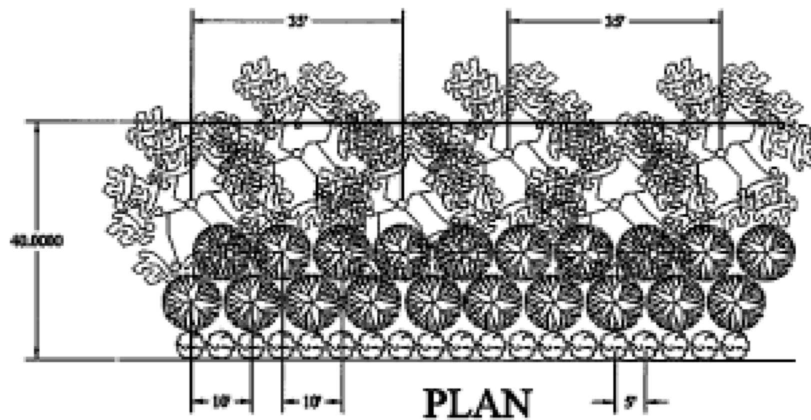
ELEVATION



PLAN

EXAMPLES OF TYPE E BUFFER ZONE

ELEVATION



(3) The minimum required buffer shall be determined according to the table below. In the interest of preserving the quality of development in the City of Cleveland, proposed development with an intensity of (N) must provide a Type A or Type B buffer when locating adjacent to property that is (H) or (V), and proposed development that has an intensity of (L) must provide a Type A or Type B buffer when locating next to property that is (V). The other cases represented in the table below are of proposed development areas that are more intensive than the adjacent areas and therefore have to provide a buffer.

(4) Proposed residential uses with an intensity of (N) or (L), when developed adjacent to a highway require a buffer between the proposed residential use and the highway as described herein. Residential development with an intensity of (N) shall provide a Type A or Type B buffer along its borders with principal arterial streets, Interstate highways, and other freeways. Residential development with an intensity of (L) shall provide a Type A or Type B buffer along its borders with Interstate highways and other freeways. Where a buffer is required by this paragraph, it may be interrupted for the purpose of installing driveways, access roads, signage, and the like where these are otherwise permitted, and where accessory structures serving the residential development are located so as to buffer the residences.

(5) On sites abutting a street classified as arterial or above and which are wooded, meaning that tree canopy covers at least 50% of the site, reduction of the tree canopy to less than 20% without commencing development on an approved site plan or subdivision (not minor subdivision) within one year of the canopy reduction shall require the planting of a Type B buffer within 20 feet of adjoining properties or the maintenance of a Type A buffer within 50 feet of adjoining properties. The planting and maintenance of this buffer on the undeveloped property shall not eliminate the requirement to otherwise fully comply

with the buffering requirements of this ordinance when the property is developed.

(6) For purposes of this section on landscape buffers, the term "shade tree" shall mean large trees from the Urban Forester's recommended tree list, or other species specifically approved by the Urban Forester. For purposes of this section on landscape buffers, the term "evergreen tree" shall mean large or medium evergreen trees from the Urban Forester's recommended tree list. These recommended tree lists are reproduced here below for the sake of convenience:

Recommended Deciduous Tree List **Large Trees** **(mature height >50')**			
Common Name	**Scientific Name**	**Common Name**	**Scientific Name**
English Oak	Quercus robur	Red maple	Acer rubrum
Sawtooth Oak	Quercus acutissima	Sugar maple	Acer saccharum
Willow Oak	Quercus phellos	River Birch	Betula nigra
White Oak	Quercus alba	American Beech	Fagus grandifolia
Water Oak	Quercus nigra	White Ash	Fraxinus pennsylvanica
Pin Oak	Quercus palustris	Green Ash	Fraxinus americana
Shumard Oak	Quercus shumardii	Ginkgo*	Gingko biloba
Scarlett Oak	Quercus coccinea	Kentucky Coffee Tree*	Gymnocladus dioicus
Red Oak	Quercus rubra	Tulip tree	Liriodendron tulipifera

Common Name	**Scientific Name**	**Common Name**	**Scientific Name**
Black Oak	Quercus velutina	Silver Linden	Tilia tomentosa
Northern Red Oak	Quercus borealis	Japanese Pagodatree	Sophora japonica
Southern Red Oak	Quercus falcata	Southern Magnolia	Magnolia grandifolia
American Linden	Tilia Americana	Bald Cypress	Taxodium distichum
Littleleaf Linden	Tilia cordata	Honey Locust	Gleditsia triacanthos
American Sycamore	Platanus occidentalis	Sweetgum	Liquidambar styraciflua
Blackgum	Nyssa sylvatica	Japanese Zelkova	Zelkova serrata
Dawn Redwood	Metasequoia glyptostroboides	London Planetree	Platanus acerifolia
Chinese Elm	Ulmus parvifolia		

*Note: Only male of these species shall be planted

Recommended Evergreen Trees			
Medium Size Trees (mature height >25', <50')		**Large Trees (mature height >50')**	
Common Name	**Scientific Name**	**Common Name**	**Scientific Name**
Foster Holly	Ilex x'Fosteri' cultivars	Atlas Blue Cedar	Cedrus atlantica glauca
Yaupon Holly	Ilex vomitoria cultivars	Deodar Cedar	Cedrus deodara
English Holly	Ilex aquifolium cultivars	Eastern White Pine	Pinus strobes
American Holly	Ilex opaca cultivar	Loblolly Pine	Pinus taeda

Cherry Laurel	Prunus caroliniana	Canadian Hemlock	Tsuga Canadensis
Norway spruce	Picea abies		

REQUIRED BUFFER TABLE						
	ADJACENT USE INTENSITY	N	L	M	H	V
PROPOSED USE INTENSITY						
N		NONE	NONE	NONE	A or B	A or B
L		A or B	NONE	NONE	NONE	A or B
M		A or C	A or B	NONE	NONE	NONE
H		D	A or C	A or B	NONE	NONE
V		E	D	A or C	A or B	NONE

(7) There may arise from time to time situations wherein a landscape buffer required by this ordinance would negatively affect the public interest. Such situations could include impeding visibility or maintenance along a public right-of-way, or interference with utilities or drainage, or interruption of a stream buffer, or flood hazard impact, or impact on historic resources, wildlife habitat, or scenic views, and like concerns. In such a situation, the Director may allow the landscape buffer to be modified to the extent necessary to address the problem after considering the effects of the required buffer on the public interest in comparison to a proposed modification to the buffer. The analysis made by the Director would include documentation of the impact of the buffer, consideration of any known alternatives that would be mitigate the impact of the required landscape buffer while preserving the benefits it is intended to provide, and consideration of comments from property owners whose interests would otherwise be protected by the required buffer. The Director's analysis could also include other site design features of the buffering property that complement the intended effects of the landscape buffer, such as the location and screening of noisy or unsightly activities. (as amended by Ord. #2014-02, Feb. 2014)

C. Tree Preservation

It is the purpose and intent of this section of the zoning regulations to promote the preservation of trees on private property, or the replacement of such trees where preservation is ineffective, in order to improve the quality of development and to provide environmental and aesthetic benefits and to buffer or otherwise mitigate the affects of urbanization.

On any tract, lot, or parcel of land, or portion thereof, lying in the City of Cleveland, Tennessee that is 1 acre or more in size or on any such tract, lot, or parcel less than 1 acre that contains no building with a tax appraisal of $25,000 or more, it shall be unlawful and a zoning violation in any zoning district to remove any trees with a trunk diameter greater than 6 inches or any trees designated for preservation in an approved Tree Removal, Replacement, and Preservation Plan (TRRPP), except in compliance with the following requirements (trees that are dead, that are severely diseased or severely and unintentionally damaged, or that are in a utility easement or right-of-way, or that are physically damaging or endangering existing structures, utilities, transportation, or communication systems, e.g. root damage to pipes or the blocking of satellite reception and the like---these are subject to coverage by a general City Of Cleveland permit but the owner of any tree or trees removed pursuant to these exceptions is responsible to maintain specific documentation of the existence of such exception conditions in order to sustain coverage by the aforementioned general permit):

1. A tree removal permit is obtained from the Department of Community Development based upon a Tree Removal, Replacement, and Preservation Plan (TRRPP) approved by the Urban Forester. A tree removal permit would not authorize grading of a site or any other land disturbing activity requiring a land disturbance permit under the City's stormwater ordinance but it would authorize tree removal in conjunction with these activities once they are properly permitted. A tree removal permit would authorize tree removal by cutting in the absence of a land disturbing activity. A tree removal permit would authorize only such tree removal as is consistent with the approved TRRPP. Removing or endangering (failing to follow the Urban Forester's guidelines for preserving trees) trees that are to be preserved under the TRRPP would be a violation of the tree removal permit.

2. The TRRPP is to include the general location of forested areas on the site and available aerial photography. The TRRPP is to identify general areas on the site within 50 feet of property lines where tree preservation could occur (where the required tree preservation is not feasible within 50 feet of property lines alternative areas of the site may be designated). The TRRPP is to identify how any trees and their associated understory will be preserved on the site (pre-development, during development, and post-development) consistent with guidelines provided by the Urban Forester. The TRRPP should result in a practical and sustainable preservation of trees that will provide benefits to the development and the community consistent with the purpose and intent of this ordinance. Trees that are preserved should be incorporated into any required buffering for the site or into site landscaping and trees that are preserved are intended to be counted toward the fulfillment of any requirements for buffering (if in the buffer area) or landscaping. Shielding of residential areas from roadways and other uses is an important consideration. Preserving of the largest tree or trees is not necessarily paramount but consideration should be given to size, species characteristics, potential positive and negative impacts of the particular trees in their location in light of the development plan, and long term survival of the trees. The TRRPP is to achieve a target of preserving 10 trees with a trunk diameter of 6 inches per acre, or a canopy coverage from trees with a 6 inch trunk diameter that is equal to 10% of the site acreage. Trees preserved are to be from species approved by the Urban Forester and are to consist of at least 50% shade trees, by number of trees or percentage of canopy. The TRRPP is to identify the location, species, common name, and diameter at breast height (dbh) of the tree to be preserved and this same information is to be provided for any tree that exceeds 20 inches dbh not to exceed 20 trees per site (priorities for inclusion are the largest trees, hardwood shade trees not otherwise listed among the exceptions for preservation, and trees within 50 feet of a property line). Where a large tree of 20 inches or more dbh is included in the TRRPP to be preserved, it will count as two trees if the required minimum is to be met by preserving 10 trees per acre.

3. The TRRPP is a part of and a condition of any tree removal permit, site plan approval, land disturbance permit, and/or building permit issued for development on the site. The property owner is responsible to maintain the property perpetually in compliance with the approved TRRPP. Modifications to the plan that are necessitated by the final site design are to be approved by the Urban Forester. In the event that a preserved tree in the TRRPP dies or must be removed for some other reason, the Urban Forester may approve a modification to the

TRRPP that includes replacement of the tree. Replacement will be with one or two trees that have a minimum combined dbh of at least 6 inches at the time of planting. The TRRPP is to be submitted to and approved by the Urban Forester prior to the issuance of a tree removal permit. A TRRPP review fee of twenty-five dollars shall be submitted with each TRRPP and with each TRRPP revision that is initiated by the property owner.

On any tract, lot, or parcel of land, or portion thereof, lying in the City of Cleveland, Tennessee that is less than 1 acre and that contains a building with a tax appraisal of $25,000 or more, it shall be unlawful and a zoning violation in any zoning district to remove any tree(s) with a trunk diameter greater than 28 inches diameter at breast height (dbh) without a Limited Tree Removal Permit approved by the Urban Forester (trees that are dead, that are severely diseased or severely and unintentionally damaged, or that are in a utility easement or right-of-way, or that are physically damaging or endangering existing structures, utilities, transportation, or communication systems, e.g. root damage to pipes or the blocking of satellite reception and the like---these are subject to coverage by a general City Of Cleveland permit but the owner of any tree or trees removed pursuant to these exceptions is responsible to maintain specific documentation of the existence of such exception conditions in order to sustain coverage by the aforementioned general permit). If there would be fewer than five trees of 6 inches or more dbh remaining on the site after the removal of the tree(s) that are the subject of the Limited Tree Removal Permit, then each tree removed shall be replaced by a shade tree from the Urban Forester's approved list. The replacement shall be on-site or, if approved on appeal to the Urban Forester, on a public property or alternative site protected by a conservation easement. The total number of trees removed pursuant to one or more Limited Tree Removal Permits on a given property shall not exceed four. The Limited Tree Removal Permit fee of ten dollars shall be submitted prior to approval of the permit. (as amended by Ord. #2008-10, April 2008, Ord. # 2008-11, April 2008, and Ord. #2009-57, June 2009)

3.4 Access, parking and loading.

A. General access requirements.

(1) Each lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for

emergency vehicles as well as for all those likely to need or desire access to the property.

(2) A Point of access (driveway, curb cut, entrance or exit point) shall not exceed twenty-five (25) feet in width on lots for residential uses, and forty (40) feet in width for nonresidential uses, provided that the point of access does not exceed fifty (50) percent of the lot frontage.

(3) In zoning district, other than residential, lots less than one hundred fifty (150) feet in width shall have only one (1) point of access to any public street; lots less than two hundred fifty (250) feet in width shall have no more than two (2) points of access on through streets.

(4) The distance between any two (2) points of access shall be at least twenty-five (25) feet measured from edge of pavement to edge of pavement at the right-of-way line.

(5) An access point shall be located at least twenty-five (25) feet from any street intersection measured from the curb radius tangent point or property line radius point.

(6) Where access to a state or federal highway is controlled by regulations other than those stated herein, the most restrictive regulations shall prevail.

B. Driveway locations.

All driveway entrances and other openings onto streets shall be constructed so that:

(1) Vehicles can safely enter and exit; specifically, that it is not necessary for vehicles to exit by backing onto collector streets and above; and

(2) The Location of the driveway does not interfere with traffic.

C. Streets, cul-de-sacs and alleys.

(1) Design standards for streets.

This section establishes minimum requirements applicable to the access and circulation system, including public and private streets, and access control to and from public streets. The standards in this section are intended to minimize the traffic impacts of development, to assure that all developments adequately and safely provide for the storage and movement of vehicles consistent with good engineering and development design practices.

a) The arrangement, character, extent, width, grade and location of all streets shall conform to the street and highway plans of the Tennessee department of transportation and the City of Cleveland, and shall be considered in their relation to existing and planned streets, to topographical conditions and to public convenience and safety. Streets shall be considered in their appropriate relation to the proposed uses of the land to be served by such streets and the most advantageous development of the surrounding area.

b) Where streets are not shown in any street or highway plan, their arrangement shall either provide for the continuation of appropriate projections of existing principal streets in surrounding areas; or conform to a plan for the neighborhood, Approved or adopted by the Cleveland Planning Commission, to meet a particular situation where natural conditions make continuance or conformity to existing streets impractical.

c) Local streets shall be so laid out and arranged as to discourage their use by through traffic.

d) Where a development abuts or contains an existing or proposed arterial street, the planning commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

e) Where a development borders on or contains a right-of-way, expressway, drainage canal or waterway, the planning

commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades for future bridge or grade separations.

f) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the city under conditions approved by the planning commission.

g) Half or partial streets shall not be permitted except where essential to the reasonable subdivision of a tract in conformity with the standards of this ordinance and where, in addition, satisfactory assurance for dedication of the remaining part of the street is provided. Wherever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.

h) Dead-end streets are prohibited except those designed to be so permanently. Permanent dead-end streets must have the approval of the planning commission.

(2) Design standards for cul-de-sacs.

a) A cul-de-sac is measured from its dead-end or vehicular turnaround back to its intersection with another street or cul-de-sac. A "Y" shaped road leaving the highway would have two (2) Cul-de-sacs: the two (2) branches of the "Y." The base of the "Y" would not be considered a part of the cul-de-sac.

b) Normal cul-de-sac length shall be limited to the length required to generate an average daily traffic (ADT) of two hundred fifty (250) vehicles per day based upon an estimate of ten (10) average daily trips per single family unit, or one thousand (1,000) feet, whichever is shorter.

c) Normal cul-de-sacs shall have a minimum forty (40) foot right-of-way and a minimum twenty-two (22) foot wide paved surface. At the closed end (cul-de-sac) they shall be provided with a turnaround having an outside roadway

diameter of at least sixty (60) feet and a street property line diameter of at least eighty (80) feet. No sidewalk is required.

d) Extended cul-de-sac lengths shall be limited to the length required to generate a maximum ADT of five hundred (500) vehicles per day or one thousand five hundred (1,500) feet, whichever is shorter.

e) Extended cul-de-sacs shall have a minimum of fifty (50) foot right-of-way, a twenty-four (24) foot paved street, and a sidewalk on at least one side.

f) A cul-de-sac that is an extension of a local street shall have a right-of-way width of fifty (50) feet, a twenty-four (24) foot wide paved street, and a sidewalk on at least one (1) side regardless of length. If the combined length of the local street and the cul-de-sac extension exceeds two thousand five hundred (2,500) feet from the end of the cul-de-sac paved surface to the centerline of the collector street or arterial to which it connects, the turnaround shall have an outside roadway diameter of at least ninety (90) feet, and a street property line diameter of at least one hundred ten (110) feet to accommodate school buses.

(3) Design standards for alleys.

a) The width of an alley shall be twenty (20) feet or more.

b) Changes in the alignment of alleys shall be made on a centerline radius of not less than seventy-five (75) feet.

c) Dead-end alleys shall be avoided where possible, but if they are unavoidable, they shall be provided with adequate turnaround facilities for service trucks at the dead end, with a minimum external diameter of ninety (90) feet, or as determined to be adequate by the transportation engineer.

(4) Design standards for intersections.

a) Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than seventy-five (75) degrees, except at a "Y" intersection of two (2) minor streets.

b) Multiple intersections involving junctions of more than two (2) streets are prohibited, except where they are found to be unavoidable by the Cleveland Planning Commission.

c) "T" intersections of minor and collector streets are to be encouraged.

d) As far as possible, intersections on arterial streets shall be located not less than eight hundred (800) feet apart measured from the centerline.

e) Property line radii at street intersections shall be twenty-five (25) feet for minor streets. Where the angle of intersection is less than seventy-five (75) degrees, a greater radii may be determined by the transportation engineer and approved by the Cleveland Planning Commission.

f) Curb return radii at local streets intersecting local streets shall be a minimum of fifteen (15) feet, and shall be a minimum of twenty-five (25) feet where local streets intersect collectors or arterials. Curb returns at collector and/or arterial intersections shall be as determined by the city transportation director.

3.4.1 Drives, driveways and sidewalks.

A. No sidewalk, driveway or other means of entrance to any lot, regardless of the district in which the said lot is located, shall be constructed without the written approval of the city public works director.

(1) Adjacent commercial or office properties which are major traffic generators (such as shopping centers and office parks) shall provide a cross access drive and pedestrian access to allow circulation between sites. A major traffic generator is defined as a generator that is responsible for initiating over five hundred (500) trips per day.

(2) Joint use driveways and cross access easements shall be established wherever feasible along arterial streets and major collector streets. A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged wherever feasible.

(3) The city may reduce required separation distances of access points provided that joint access driveways and cross access easements are provided as described in this section.

(4) Driveways shall be located and constructed in the City of Cleveland according to the urban standards outlined in the latest edition of the Tennessee Department of Transportation guidelines entitled "Rules and Regulations for Constructing Driveways on State Highway Rights-of-way."

B. Sidewalk locations.

(1) Where a proposed development includes improvements or new construction of collector or arterial facilities, facility designs shall include provision for sidewalks within the right-of-way on both sides of the street.

(2) Residential projects within two thousand (2,000) feet of an activity center comprised of commercial, office, service, recreation activities, or public primary and secondary schools shall provide sidewalks on both sides of the street, except that cul-de-sacs with less than two hundred fifty (250) adt or less than one thousand (1,000) feet in length shall not require sidewalks. All other residential streets shall have a sidewalk on at least one side.

(3) Pedestrian-ways or crosswalks, not less than ten (10) feet wide with a sidewalk meeting the requirements of this ordinance, may be required to be placed in the center of blocks more than eight hundred (800) feet long where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

3.4.2 [Reserved.]

3.4.3 Rights-of-way

A. Right-of-way widths.

(1) Unless otherwise required by the Tennessee department of transportation or the city street plan, right-of-way

requirements shall be as shown in the following table. Rights-of-way are measured from lot line to lot line.

Table 4
Right-of-way Widths

Street Classification	**Average Daily Traffic (ADT) Vehicles per Day (VPD)**	**Right-of-Way Width (Feet)**
Major Arterial	5,000 or more vpd	120 cb
Minor Arterial	2,000 - 5,000 vpd	80 feet
Major Collector	1,000 - 2,000 vpd	70 feet
Minor Collector	500 - 1,000 vpd	60 feet
Local Street	250 - 500 vpd	50 feet
Cul-de-sac or Loop	1-250 vpd	40 feet
Alley	less than 250 vpd	20 feet (residential) 30 feet (commercial)

(2) Additional right-of-way width may be required to promote public safety and convenience, or to ensure adequate access, circulation and parking in high density residential areas, commercial areas and industrial areas.

B. Protection and use of rights-of-way.

(1) No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the city.

(2) Use of the right-of-way for public or private utilities, including, but not limited to sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission, shall be allowed subject to the approval of the city engineer and city transportation director.

(3) Sidewalks shall be placed within the right-of-way or dedicated easement.

C. Dedication of rights-of-way.

All rights-of-way shall be designed and constructed to city specifications and may be dedicated to the city after the city engineer has approved the construction. A surety must be provided by the developer for one (1) year after construction is completed to ensure proper maintenance.

3.4.4 Off-street parking.

A. Off-street parking facilities shall be provided for all development within the city pursuant to the requirements of this section, except in the CBD zoning district. The facilities shall be maintained as long as the use exists that the facilities were designed to serve. (as amended by Ord. #2011-29, Dec. 2011)

B. The following table indicates the minimum number of required parking spaces.

Table 5
Minimum Parking Spaces

Land Use Category	Minimum Number of Spaces
Residential, Single-family	2 for the first br + .5 for each additional br
Residential, multi-family[1]	
1 br and efficiency unit	2/unit
2 br unit	2.25/unit
3+ br unit	2.5/unit
Mobile Home Parks	2.0/unit
Institutional	
Church	1/3 seats
School	1/classroom + 1/250 sq ft of office
Living and Nursing Facilities	.5/sleeping unit + 1/employee on largest shift
Other	1/250 sq ft
Outdoor Recreation	1/3 patrons plus 1/employee on largest shift
Personal Service	
Barber/beauty Salons	3/station
All Other	1/250 sq ft
General Office	1/400 sq ft
Medical Office	1/150 sq ft
Neighborhood Commercial	1/250 sq ft

[1]Ord. #25, Dec. 2002 provides that parking requirements for rooming houses and dwelling units other than single-family dwellings that were constructed after November 1, 2002 with more than two unrelated occupants of legal driving age, be established as two spaces per bedroom. Furthermore, the parking design requirements of this ordinance shall be in addition to the requirements of section 3.4.4.

Land Use Category	Minimum Number of Spaces
General Commercial	
Theaters/Auditoriums, Places of Assembly	1/3 Seats
Commercial Recreation Facilities	1/3 patrons + 1/250 sq ft office space
Funeral Homes	1/3 seats in chapel + 1/250 sq ft office space
Hospitals	1/bed + 1/250 sq ft office space
Hotels and Motels	1/lodging room + 1/100 sq ft restaurant
Restaurants	1/100 sq ft
All Other	1/200 sq ft
High Intensity Commercial	
Vehicles Sales, Rentals, Etc.	1/500 sq ft building
Body Shops	1/3 bays
Gasoline Stations, Convenience Stores	1/250 sq ft + 1/3 bays
Outdoor Arenas	1/3 patrons
Public Service	1/employee + 1/250 sq ft office space
Industrial	1/employee + 1/250 sq ft office space

C. Computation.

(1) When determination of the number of off-street spaces required by this section results in a fractional space, the fraction of one-half or less may be disregarded, a fraction in excess of one-half shall be counted as one parking space. Any factional space may be disregarded when it is documented that the dimensions of the site would render the construction of the additional space impractical.

(2) In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, or which contains an open assembly area, the occupancy shall be based on the maximum occupancy rating given the building by the adopted building code.

(3) Gross floor area shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

(4) There is no minimum off-street parking requirement in the CBD zone. For new construction in the CDB zone, the

parking provided shall not exceed the highest average parking generation rate for the proposed land use, as found in the Institute of Transportation Engineer's Parking Generation, 4th Edition, or any subsequent edition. If a proposed land use is not listed in this publication, the City Engineer will set the maximum number of parking spaces allowed. (as replaced by Ord. #2010-27, July 2010, and amended by Ord. #2011-29, Dec. 2011)

D. On-street parking.

Approved on-street spaces which abut the property may be counted as a portion of the required parking spaces.

E. Design requirements.

(1) Minimum parking dimensions for standard vehicles shall be according to the following table:

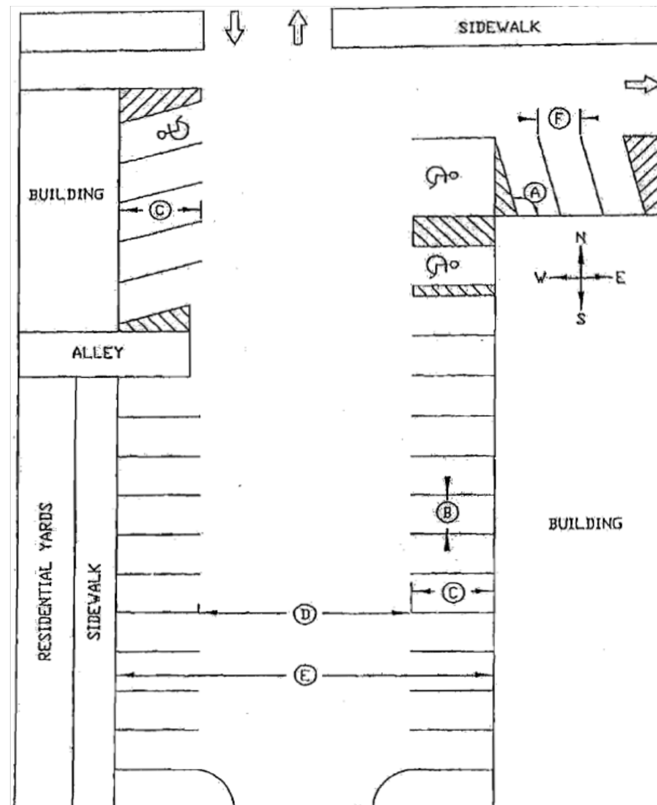
Table 6
Minimum Parking Dimensions
(Standard Vehicles)

A		B	C	D	E	F
Parking Angle (Degrees)	Parking Direction	Stall Width	Stall Depth Perpendicular to Aisle[3]	Width of Aisle	Width of Aisle plus Two Stalls	Stall Width Parallel to Aisle
45	Drive	9 ft	15 ft	12 ft	42 ft	12.7 ft
60	Drive	9 ft	17 ft	16 ft	50 ft	10.4 ft
75	Drive	9 ft	18 ft	18 ft	54 ft	9.3 ft
90	Drive	9 ft	18.0 ft	20 ft	56 ft	9.0 ft

[3]Stall depth to be measured at front of vehicle or curb.

FIGURE 3

Typical parking lot layout



(2) Except as provided in this section, all required off-street parking spaces and the use they are intended to serve shall be located on the same parcel.

(3) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one (1) or two (2) dwelling units, although backing onto arterial streets is discouraged. No other uses shall provide parking that requires backing onto a public street.

(4) Every vehicle parking space shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas

shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(5) Telephone poles and other obstructions shall be protected from damage by a landscape island or other protective device.

(6) The building official with the concurrence of the city transportation director may approve off-site parking facilities if the location of the off-site parking spaces will adequately serve the use for which it is intended and the location will not create unreasonable hazards to pedestrians and other traffic. The following factors shall be considered:

a. Proximity of the off-site spaces to the use that they will serve. Off-street parking shall be provided within four hundred (400) feet of the principal entrances thereto, measured along the most direct pedestrian walkway.

b. Ease of pedestrian access to the off-site parking spaces.

c. Whether or not off-site parking spaces are compatible with the use intended to be served, e.g., off-site parking is not ordinarily compatible with high turnover uses such as retail.

d. The developer supplies a written agreement, approved in form by the city attorney, assuring the continued availability of the off-site parking facilities for the use they are intended to serve. The city shall be a party to the agreement with enforcement authority. The agreement shall contain covenants running with the lands of both the dominant and subservient parcels.

(7) Distances shall be measured from a dwelling unit's entry to the parking space. Where a stairway or elevator provides access to dwelling units, the stairway or elevator shall be considered to be the entrance to the dwelling units. Loading areas shall have direct access to a public street or alley and

include sufficient off-street maneuvering space so that no vehicular backing onto or from a public street is required.

(8) The size and layout of parking spaces shall conform to the engineering design and construction standards of the City of Cleveland.

(9) Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient.

(10) Parking and loading areas, aisles, pedestrian walks, landscaping, and open space shall be designed as integral parts of an overall development plan and shall be properly related to existing and proposed buildings.

(11) Buildings, parking and loading areas, landscaping and open spaces shall be designed so that pedestrians moving from parking areas to buildings and between buildings are not unreasonably exposed to vehicular traffic.

(12) Landscaped, paved, and gradually inclined or flat pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings. Pedestrian walks should be designed to discourage incursions into landscaped areas except at designated crossings.

(13) Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family or two-family residence shall be counted as a parking space for the dwelling unit, or as a number of parking spaces as determined by the building official with the concurrence of the city transportation director based on the size and accessibility of the driveway.

(14) The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces. A physical separation or barrier, such as vertical curbs, may be required to separate parking spaces from travel lanes.

(15) Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.

(16) No Parking space shall be located so as to block access by emergency vehicles.

(17) Compact car spaces should be located no more and no less conveniently than full size car spaces and shall be grouped in identifiable clusters.

F. Handicap access and parking.

Any parking area to be used by the general public shall provide suitable, marked parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of applicable state and federal laws. All spaces for the handicapped shall be paved.

G. Landscape requirements for parking lots.

Landscaping requirements which apply to all multi-family residential uses of five (5) units or greater, mobile home parks, commercial, office and industrial developments are provided in section 3.3. Specific requirements for parking lots in all districts are as follows:

(1) Parking lot perimeters, terminal islands, interior islands, and dividers shall be landscaped with deciduous shade trees and natural plant materials. The latter at maturity shall not exceed thirty (30) inches in height. The use of existing native species of plant material is strongly encouraged.

(2) Maintenance of all islands, parking spaces and ways, landscaping, and traffic control devices within the parking area is the responsibility of the property owner. All elements shown on the site plan are to be maintained on a regular schedule.

H. Parking deferral.

(1) To avoid requiring more parking spaces than actually needed to serve a development, upon application and upon the recommendation of the city transportation director, the board of zoning appeals may defer the provision of some portion of the off-street parking spaces required by this section if the conditions and requirements of this section are satisfied.

(2) At the direction of the city transportation director, a parking study shall be prepared and submitted which demonstrates the following:

a. Different parking ratios are appropriate based upon estimates of parking requirements and recommendations in studies such as those from Urban Land Institute (ULI), Institute Traffic Engineers (ITE), or the traffic institute, and based on data collected from uses or combinations of uses which are the same or comparable to the proposed use. Comparability shall be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop recommendations.

b. The Percentage of parking spaces sought to be deferred corresponds to the percentage of residents, employees, and customers who regularly walk, use bicycles and other non-motorized forms of transportation, or use mass transportation to come to the facility. Documentation of the source of this data must be provided.

I. Historic preservation exemption.

The preservation of any property that has been placed on the local register of historic places, or that is located in a historic district and contributes to the historic character of the district, may be grounds for a reduction in, or complete exemption from, the parking requirements in this section. The reduction or exemption needed to allow a viable use of the historic structure shall be granted unless a severe parking shortage or severe traffic congestion will result.

J. Increase or decrease in requirements.

The Number of required parking spaces may be increased by the building official, with the concurrence of the city transportation director, if a parking study demonstrates that the proposed use would have a parking demand in excess of the requirements in this section. The building official may require the developer to provide a parking study, as described in section 3.4.4.h(2) when the city transportation director indicates that an increase or decrease in the number of parking spaces may be warranted.

3.4.5 Alternative parking requirements.

A. Shared parking.

Upon the recommendation of the city transportation director, the board of zoning appeals may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of need of maximum parking do not normally overlap. Reduction of parking requirements because of joint use shall be approved if the following conditions are met:

(1) The developer submits sufficient data to demonstrate the hours of maximum demand for parking and the respective uses do not normally overlap.

(2) The developer submits a written agreement, to which the city shall be a party with enforcement authority, approved by the city attorney, guaranteeing the joint use of the off-street parking spaces signed by all property owners involved as long as the uses requiring parking are in existence and there is not a conflict of traffic between the uses that would result in a violation of the minimum standards of this article or until the required parking is provided elsewhere in accordance with the provisions of this subdivision. The agreement shall include provisions for maintenance of the parking facility. The agreement shall contain covenants running with the lands of both the dominant and subordinate parcels.

B. Reduction for low percentage of leasable space.

The requirements of this section assume an average percentage of gross leasable building to total gross building area (approximately 85%). If a use has a much lower percentage of leasable space because of cafeterias, athletic or covered patios; multiple stairways and elevator shafts; atriums; conversion of historic residential structures to commercial use; or for other reasons, the building official, with the concurrence of the city transportation director, may reduce the parking requirements if the following conditions are met:

(1) The developer submits a detailed floor plan describing how all of the floor area in the building will be used.

(2) The developer agrees in writing that the usage of the square footage identified as not leasable shall remain as identified, unless and until additional parking is provided to conform fully with this section.

3.4.6 Off-street loading/unloading.

Spaces to accommodate off-street loading or business vehicles shall be provided as required in this section.

A. Spaces required.

(1) Schools, hospitals, nursing homes and other institutional uses and mid- and high-rise residential uses shall provide one loading space or bay for the first one hundred thousand (100,000) square feet of gross floor area or fraction thereof, and one space for each additional one hundred thousand (100,000) square feet or fraction thereof.

(2) Auditoriums, gymnasiums, stadiums, theaters, convention centers and other buildings for public assembly shall provide one space for the first twenty thousand (20,000) square feet of gross floor area or fraction thereof, and one space for each additional ten thousand (10,000) square feet.

(3) Offices and financial institutions shall provide one space for the first seventy-five thousand (75,000) square feet of gross floor area or fraction thereof, and one space for each additional twenty-five thousand (25,000) square feet.

(4) Retail commercial, service, road service and commercial entertainment uses shall provide one space for the first ten thousand (10,000) square feet of gross floor area, and one space for each additional twenty thousand (20,000) square feet.

(5) Industrial users shall provide one space for every ten thousand (10,000) square feet of gross floor area.

B. The building official may, upon the recommendation of the transportation engineer, require that a study be done to determine the actual number of loading spaces needed for a proposed use. The transportation engineer shall recommend the need for a study when it appears that the characteristics of the proposed use require a

greater or lesser number of loading spaces than that required or proposed.

3.4.7. Parking and storage of non-residential vehicles and equipment

It is the intention of this ordinance to limit the regular parking or storage of commercial and industrial vehicles and equipment within the RA, R1, R2, R3, R4, and R5 residential zoning districts. This section is intended to restrict the use of residentially developed properties in the aforementioned zones for the parking or storage of commercial or industrial vehicles or equipment that is picked up by an employee or contractor who comes to the property from off-site to pick up the vehicle or equipment for a business use taking place off-site. This section is intended to restrict the size and types and numbers of vehicles and equipment that can be parked or stored on a residentially developed property in the aforementioned zones. This section applies to commercial or industrial vehicles not typically used as personal transportation or in non-business-related applications and to business-related equipment that is on wheels or transported on trailers, and which is used in some application typically taking place outdoors (e.g. commercial lawn mowers, sweepers, cement mixers, grading equipment, tractors, semi-trucks and trailers, car hauling trailers for multiple vehicles, brush and stump grinding equipment, tandem wheel trucks other than pick-up trucks, vehicles with more than two axles, passenger vehicles with seating for more than 15 persons, and the like). Cars, light trucks (pick-up trucks), vans or mini-vans, sport utility vehicles, station wagons, and the like that are of a type commonly used for personal transportation and which are ordinarily driven by the occupants of a residential property are allowed in the residential zone when otherwise lawfully parked. Recreational vehicles and watercraft intended for the use of residents of a residential property are allowed in the residential zone when otherwise lawfully parked. Apart from the aforementioned personal transportation-type vehicles, not more than one truck or van with not more than two axles and not more than one open or enclosed trailer not exceeding 25 feet in length, are allowed to be parked or stored overnight on each residentially developed lot or parcel in a residential zoning district. Not more than one passenger vehicle with seating for 15 or more persons but with not more than two axles (e.g. a school bus) is allowed to be parked or stored overnight on each residentially developed lot or parcel. For purposes of this ordinance, the phrase "parked or stored overnight" shall mean parked or stored for a period of three or more hours between 7:00 p.m. and 7:00 a.m. This regulation is not intended to prohibit occasional overnight parking of vehicles on a residentially zoned property by a contractor or service business for the purpose of construction, renovation, repair, or maintenance of the property excluding routine, periodic, or predictably re-occurring activities such as lawn mowing. This ordinance is not intended to permit the parking or storage of any junk vehicle on any residential property in a manner otherwise proscribed by ordinance. It shall be unlawful

and a violation of the zoning regulations to park or store vehicles on residentially zoned property in a manner contrary to this ordinance. (as added by Ord. #2007-36, Sept. 2007, and amended by Ord. #2007-41, Nov. 2007)

3.5 Exterior lighting.

All lights located within twenty (20) feet of residentially used or residentially zoned property shall meet the following requirements:

A. Lights shall have a pole height, excluding the globe, no greater than twelve (12) feet above grade.

B. Lights shall be shielded to the extent necessary to prevent illumination of the adjacent, surrounding, or nearby residentially used or residentially zoned properties.

C. Lights shall be non-glare.

3.6 Solid Waste Management.

A. Where required by city code all multi-family residential and all non-residential development shall provide an on-site dumpster or an alternative solid-waste collection arrangement approved by the city.

B. All areas designated for dumpsters of solid waste collection shall be accessible to the garbage truck which must be able to enter in a forward motion. All maneuvering must be completely on-site to approach the dumpster or other facility, pick up the solid waste, and exit the site in a forward motion. The site shall be designed so that the truck is not required to back onto the site or off of the site, except that an alley may be used for maneuvering.

C. All dumpster areas shall have an enclosure with a double gate with a minimum height of six (6) feet. The enclosure shall be made of opaque material.

D. All restaurants shall provide a used grease storage area separate from the dumpster enclosure which shall be located in an enclosed gated area.

E. Title 17, Cleveland Municipal Code, Refuse and Trash Disposal, as amended, is incorporated by reference for the purpose of solid waste management policy.

3.7 Standards for Facilities with Drive thru Service.

All facilities providing drive-up or drive-through service shall provide on-site stacking lanes in accordance with the following standards:

A. Standards.

(1) The facilities and stacking lanes shall be located and designed to minimize turning movements in relation to the driveway access to streets and intersection.

(2) The facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways.

(3) A by-pass lane shall be provided.

(4) Stacking lane distance shall be measured from the service window to the property line bordering the furthest street providing access to the facility.

(5) Minimum stacking lane distance shall be as follows:

a. Financial institutions shall have a minimum distance of two hundred (200) feet. Two (2) or more stacking lanes may be provided which together total two hundred (200) feet.

b. All other uses shall have a minimum distance of one hundred and twenty (120) feet.

(6) Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-up facilities.

(7) Where turns are required in the exit lane, the minimum distance from any drive-up station to the beginning point of the curve shall be thirty-four (34) feet. The minimum inside turning radius shall be twenty-five (25) feet.

3.8. Accessory Structures

A. Accessory structures may be located on any parcel which has a permitted principal structure or development located in full compliance with the standards of this Ordinance, but this paragraph is not intended to prohibit otherwise lawful structures not ordinarily intended for human occupancy or the storage of goods (e.g. utility equipment buildings, fences, signs, and the like). The total area covered by accessory structures on any lot or parcel shall not exceed 10% of the total lot area. No accessory structure shall be placed on a lot so as to cause the total amount of impervious area on the lot to be increased beyond the maximum that is allowed for the zoning district. No accessory structure of any type shall be located in a manner such that it interferes with a utility or utility easement or such that it presents a public safety problem, e.g. interfering with motorists' view of oncoming traffic, as determined by the Director of Public Works.

B. Accessory Buildings

(1) Accessory buildings shall be located in a manner that meets all site design requirements. Generally speaking, accessory buildings are allowed only in side and rear yards and not within front yards. Accessory buildings shall in no case be located between the required front yard setback line and the front property line. Accessory buildings shall be located behind the front of the principal structure on site, except that one detached garage or carport not exceeding 24 feet in width may be located to the front of the principal structure but behind the required front yard setback for the principal structure. An accessory building located behind an otherwise lawful privacy fence and behind the front of the principal structure on the site, will be deemed to comply with the requirements of this paragraph.

(2) Accessory buildings shall be limited to two (2) stories in height.

(3) Detached Accessory Dwelling
"Accessory dwelling, detached," also referred to as detached accessory dwelling, means a detached dwelling unit separate from the principal single family structure. The dwelling shall be clearly subordinate in size, height, and purpose to the principal structure, it shall be located on the same lot as the principal structure, but may be served by

separate utility meter(s) and is detached from the principal structure. A detached accessory dwelling can be an independent structure or it can be a dwelling unit above a garage, or it can be attached to a workshop or other accessory structure on the same lot as the principal structure. Detached accessory dwellings are not permitted within any historic overlay district.

a) Density and Bulking
   i. On lots less than 10,000 square feet, a detached accessory dwelling shall not exceed seven hundred fifty square feet.
   ii. On lots 10,000 square feet or greater, a detached accessory dwelling shall not exceed one thousand square feet.
   iii. The footprint of a single-story detached accessory dwelling shall not exceed 750 square feet or 50 percent of the first floor area of the principal structure, whichever is less.
   iv. The footprint of a two-story detached accessory dwelling shall not exceed 550 square feet or 40 percent of the first floor area of the principal structure, whichever is less.
   v. If the accessory dwelling unit is located within a larger accessory building such as a garage or poolhouse the footprint requirements shall not apply but the structure shall be subject to other size requirements of accessory structures.
   vi. The detached accessory dwelling shall maintain a proportional mass, size, and height to ensure it is not taller than the principal structure on the lot. The detached accessory dwelling height shall not exceed the height of the principal structure as measured to the eave line.

b. Driveway Access.
   i. On lots with no alley access, the lot shall have no more than one curb cut from any public street for driveway access to the principal structure as well as the detached accessory dwelling.

ii. On lots with alley access, any additional access shall be from the alley and no new curb cuts shall be provided from public streets.

iii. One parking space for each sleeping area within the unit shall be provided in addition to parking for the principle structure. (as replaced by Ord. #2015-24, Sept. 2015)

C. Fences

(1) Reserved

(2) The word "fence" as used in this section is intended to include fences and walls that extend substantially above grade on both sides of the fence or wall, but this section is not intended to govern the placement of retaining walls.

(3) On any residentially zoned or residentially used property, no fence shall be constructed within 15 feet of any public street with a right-of-way more than 20 feet wide, except the following:

a) Brick or stone columns, preferably not larger than two feet by two feet by four feet, with chain, pipe, open wrought iron or split rails, pipes or chains between the vertical columns;

b) Open wrought iron fencing four feet in height, with a minimum of 50 percent open area;

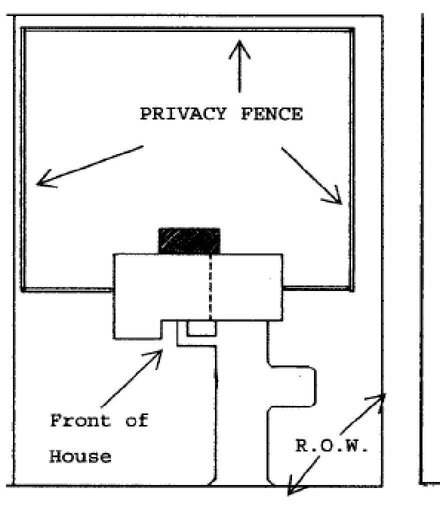
c) Split rail fencing not exceeding four feet in height, with not more than four horizontal rails between the vertical posts; or

d) Open chain link fencing, not exceeding four feet in height.

e) Masonry fencing, with a maximum height of two feet, six inches.

f) A wood, simulated wood, or masonry privacy fence not exceeding 8 feet in height is allowed on residentially zoned or residentially used property but any installation within 15 feet of a public street

requires approval by the Public Works Director who will consider the impact on traffic safety, utilities, and utility easements when evaluating the proposed fence. Any such privacy fence must be located behind the front of the principal structure (see illustration). Where an historic preservation zoning district is in effect, no privacy fence shall be allowed except in compliance with the requirements of that historic preservation zoning district.



(4) There is no maximum height for fences in commercial and industrial districts.

(5) Electrical fences are not permitted.

D. Awnings

With the exception of the CBD district, the following shall apply.

(1) All awnings attached to a building shall be set back at least four feet from any property line.

(2) No pole or other obstruction attached to the awning for the support thereof shall be closer than ten feet from the front property line.

(3) Awnings shall not be less than eight feet above the ground. (as amended by Ord. #5, April 1999, Ord. #2008-02, Jan. 2008, and Ord. #2008-34, July 2008)

3.9 Special Site Conditions.

3.9.1 Steep Slopes.

A. The maximum slope allowed for development shall be twenty-five (25) percent, unless there shall be no feasible alternative for development of the land.

B. Street and private access ways grades shall conform as closely as possible to natural topography, but shall not exceed fifteen (15) percent, except when a variance is requested and is approved by the planning commission upon the recommendation of the city engineer.

C. Street grades exceeding twelve (12) percent shall have a maximum length of six hundred (600) feet.

D. Vertical curbs shall be required on the downhill side of streets having grades of six (6) percent or greater; concrete u or v gutter may be installed in lieu of conventional rolled or vertical curb elsewhere.

E. Maximum driveway grades shall not exceed twenty (20) percent.

3.9.2 Water Bodies.

A. Lakes, creeks and ponds shall be protected during periods of construction to prevent debris, silt, and concrete or concrete by-products from entering the water body.

B. A riparian buffer zone which retains the natural landscape shall be maintained within twenty-five (25) feet of any water body. Exceptions may be granted by the planning commission when acceptable plans are presented which details how the soil will be protected from erosion, and how the filtering capacity of the vegetation will be maintained.

3.10 Regulations for Home Occupations.

A. Conditions under which such occupations may be permitted:

(1) No more than one person other than members of the family residing on the premises shall be engaged in such occupation.

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(3) There shall be no change in the outside appearance of the building or premises, nor outdoor storage of any type, nor other visible evidence of the conduct of such home occupation other than one sign not exceeding four (4) square feet in area and non-illuminated.

(4) No home occupation shall occupy more than one-thousand (1000) square feet of any accessory building, and such use shall not conflict with any applicable fire code, building code, or other code.

(5) There shall be no sales in connection with such home occupation other than sales of the following types: sales of services produced on the premises; or sales of products that are shipped from other off-premise locations directly to customers without coming to the site of the home occupation; or sales of small, non-hazardous items delivered off-site by the business owner where there is a minor storage of inventory (e.g. in the corner of a garage) that does not affect the residential appearance or functioning of the property (in no case should the area of the residence devoted to the business including such inventory exceed twenty-five percent (25%) of the home or otherwise be in violation of any applicable fire code, building code, or other code).

(6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be offstreet in other than the required front yard. This

paragraph is not intended to prohibit home occupations that would generate minor amounts of traffic that is not out of character with a residential neighborhood such as a one-chair hair salon, in-home teaching of piano lessons or similar instruction in other subject areas, in-home photography, or book keeping, typing, or similar services where customers or clients may come to the home in small numbers throughout the workday but not in sufficient concentration to be disruptive to the neighborhood and its traffic and parking pattern.

(7) No equipment or process shall be used in such home occupation which increases noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises. The home occupation shall not increase the type or volume of solid waste for at-curb disposal beyond that which is otherwise allowed by ordinance. The home occupation shall not introduce any wastes into the sanitary sewer system in any type, manner, or amount not permitted by Cleveland Utilities. The home occupation shall be conducted in compliance with all applicable stormwater regulations.

(8) The parking of vehicles used in a resident’s line of work (a school bus, a heavy truck, etc.) when such vehicles are parked at home for the resident's convenience and when such vehicles are parked in a paved or gravel parking area that otherwise complies with applicable codes, are not considered a violation of this section. However, this section does not permit the storage of junk vehicles, repossessed or impounded vehicles, or vehicles for sale by a licensed dealer.

B. The following uses are specifically prohibited as home occupations:

(1) Tea rooms, restaurants, and the like

(2) Real estate offices

(3) Convalescent home

(4) Daycare for more than four adults or children

(5) Funeral or mortuary establishments

(6) Animal hospitals

(7) Repair shops

C. The conduct of a home occupation shall require a home occupation permit to be issued by the Community Development Director or the Director's designee. A change in ownership or tenant at the residence shall void the permit. The Director may void the permit, or take intermediate steps such as placing the permit in probationary status for a period of time, if it is determined by the Director that the home occupation is being conducted in a manner that is contrary to this ordinance. Violations of this ordinance are hereby declared unlawful and subject to penalties prescribed for the violation of the zoning ordinance. Conduct of a home occupation without a valid permit is a violation of this ordinance.

D. The Community Development Director shall develop and implement uniform procedures for the issuance of home occupation permits, including the application of this ordinance and the disposition of complaints concerning alleged violations of this ordinance. (as amended by Ord. #2006-11, May 2006, and Ord. #2007-41, Nov. 2007)

3.11 Supplemental standards for townhouse development.

[Reserved.]

3.12 MS4 Phase II Stormwater Management Program.

All construction, development, and redevelopment resulting in land disturbance activity shall conform to the requirements of the "MS4 Phase II Stormwater Management Program" requirements as codified in Cleveland Municipal Code Title 18, Chapter 3 Sections 18-301 thorough 18-312. (as amended by Ord. #2005-21, June 2005)

3.13 Minimum standards for siting cellular communication towers.

A. PURPOSE. Establish minimum standards and location requirements for siting wireless communication (cellular) towers and antennas

within the corporate limits of the City of Cleveland, Tennessee in order to protect the public health and safety.

B. DEFINITION. For the purpose of this ordinance, the word "tower" shall be defined as "any outdoor structure designed and constructed to support one (1) or more transmitting or receiving devises for telephone, radio or any similar wireless communication facilities, with the following exceptions:"

(1) Any citizens band or amateur radio station antenna;

(2) A ground or building mounted citizens band radio antenna less than forty feet (40') in height or an amateur radio antenna not more than seventy-five feet (75') in height, provided there is adequate clearance with adjacent structures; an antenna in this category that exceeds seventy-five feet (75') in height must be reviewed and approved by the Cleveland Municipal Planning Commission;

(3) Satellite dish type antenna or a conventional type television antenna for the exclusive use of a residential occupancy;

(4) Mobile news or public information service antennas;

(5) Hand-held communication devices such as walkie-talkies, cell phones and similar type devices;

(6) Antennas owned by public agency or its members and used for emergency services, public utilities, operation or maintenance services.

C. Permit application requirements

(1) The applicant for a permit to locate a tower is responsible for providing the following information to the chief building official.

(a) A site plan drawn to scale that shows the property lines of the site, the location of the tower in relation to the property lines, adjoining property within three hundred feet (300') of the site by owner and use; distances from the base of the tower to adjoining property lines and the nearest habitable structure, proposed easement(s) by location and type and, the location of any accessory buildings proposed to be located on the site

include building setbacks from the property lines.

(b) A grading and drainage plan that indicates the existing and proposed elevation of the site and methods proposed to manage and control erosion during construction as well as permanent drainage methods and/or facilities.

(c) Proof of ownership or legal interest in the property.

(d) Engineering drawings that describe the design and structural integrity of the tower, its supports and attachments.

(e) A statement describing the general capability of the tower to serve more than one (1) user and whether space will be available for lease to additional users.

(2) Permit application review shall be coordinated by the planning director or a designee and conducted in the same procedure as subdivision plat review.

D. Co-location: Towers shall be required to accommodate the maximum number of transmitting facilities subject to the design capacity of the tower for the purpose of reducing the number of potential tower locations within the corporate limits. Applicants for a tower permit are required to provide a statement that documents their efforts to secure a co-location on an existing tower.

E. Permitted locations, by zoning district: Tower shall be permitted in a Local Highway Business, Professional or Manufacturing zoning district within the corporate limits. A tower, without exception, is not permitted in a Residential (R-1,2, 3, 4, 5 or A) zoning district, the Floodway district or the Central Business District (CBD).

F. Separation of tower to off-site uses: Tower separation shall be measured in straight line distance from the base of the tower structure to nearest zoning district boundary line. The tower location shall, without exception, maintain a minimum distance of two hundred feet (200') or three hundred percent (300%) of the height of the tower; whichever is greater, from any adjoining district where a

tower is not a permitted use. Accessory uses shall maintain building setbacks as prescribed by the applicable zoning district.

(1) If the adjoining district is a district where a tower is permitted, the building setbacks applicable to the zoning district wherein the tower is located shall apply.

G. Security fencing: The area surrounding the tower location, but not necessarily the entire lot, shall be enclosed with fencing adequate to secure the tower under normal circumstances.

H. Landscaping and aesthetics: Plant materials suitable to screen the tower location shall be incorporated into the design of the facility. As a general criteria, plant species that are native or commonly utilized in the area shall be considered in order to maintain compatibility with adjoining property. A general landscape plan shall be submitted concurrent with the site plan and is subject to the review of the Cleveland Urban Forester.

I. Tower prohibited in airport approach zone: No tower shall be located within the Cleveland Municipal Airport approach surface zone, the horizontal surface zone, conical surface zone or transitional zone as shown on the Airport Zoning Map, dated October 7, 1959, as amended.

J. Abandoned tower policy: In the event a tower becomes obsolete or is out of service for any reason for six (6) consecutive months, the owner or record shall cause the tower to be dismantled and removed from site and disposed of in the manner appropriate for disposal or re-use of the tower materials. A time period of one (1) year shall be provided from the time the tower is deemed to be out of service for the owner to either activate the tower or remove it from the site.

(1) Failure to comply with the terms of this section concerning removal of abandoned towers shall be subject to penalties as provided by the Cleveland Municipal Code. (as added by Ord. #7, Aug. 1998)

4.0 Alternative Development Standards.

The purpose of this section is to describe certain overlay zones used to allow certain types of development.

4.1 Planned Unit Development.

4.1.1 Purpose.

A. It is the purpose of the PUD Planned Unit Development District to provide flexible land use and design regulations and to permit planned diversification and integration of uses and structures, while retaining in the City Council the absolute authority to establish limitations and regulations thereon for the benefit of the public health, welfare and safety. These provisions are designed to:

(1) Promote more efficient and economic residential and non-residential uses of land, and encourage appropriate mixed use development.

(2) Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.

(3) Provide for open spaces and common areas and provide usable and suitably located recreational facilities within the development.

(4) Allow the controlled development of land uses most suitable to the proposed site and surrounding neighborhoods.

(5) Provide design and location criteria to encourage innovative development.

(6) Encourage small area planning, beneficial coordination in private and public investment, and site assembly for planned development.

B. The PUD District designation is a two-step process consisting of a PUD Conceptual Plan and a PUD Development Plan. The PUD Conceptual Plan is intended to communicate a proposed development concept for a project area greater than three (3) acres that may or may not be under unified ownership and/or control (a PUD with only residential uses may be as small as 1 acre). PUD Conceptual Plan approval would not constitute a change in the zoning map or otherwise alter the existing development rights of property in the affected area. The PUD Conceptual Plan approval process would identify desirable parameters for future development pursuant to a PUD Development Plan. The PUD Conceptual Plan and the PUD

Development Plan may be approved concurrently if all necessary conditions PUD Development Plan are met. Approval of a PUD Development Plan shall be through the rezoning process, requiring a recommendation from the Planning Commission and approval by the City Council. PUD Development Plan approval shall be done by ordinance specifying uses, development standards, conditions, and limitations; and amending the official zoning map designating the area affected as a distinctly numbered PUD District. (as amended by Ord. #10, Jan. 2001, and Ord. #2008-21, June 2008)

4.1.2 PUD Process.

4.1.2.A PUD Conceptual Plan Process

The PUD Conceptual Plan process consists of the completion of an application and a conceptual plan by the applicant, a review and recommendation regarding the proposed conceptual plan by staff, and approval or denial by the Planning Commission.

(1) PUD Conceptual Plan Application. The City of Cleveland or an owner of property within an area where the PUD is proposed to be applied may make application for the PUD Conceptual Plan approval. The area to which the PUD Conceptual Plan is to be applied shall be at least three (3) acres in size, or at least one (1) acre for a residential -only PUD. The application must contain a statement of justification based upon the purposes of the PUD as described above. The application must show the boundaries of the proposed PUD area on a tax map. The application must also identify for each parcel to be included: the property owner(s); current zoning; current use of the property. The application must include any existing deed restrictions or covenants affecting the proposed PUD area. The application must contain a PUD Conceptual Plan drawn by a professional engineer at a legible scale. The application must identify the proposed uses and locations of those uses; the uses may be a range of possible uses and they should be identified according to the classification contained in the North American Industrial Classification System (NAICS) for non-residential uses. Residential uses should be identified by density and a description of the housing units (number of units, number of units per building, size of units, number of bedrooms, ownership structure [apartments, fee-simple townhome subdivision,

condominium, etc.] along with any common amenity features to be shared by residents.

(2) PUD Conceptual Plan Content. The conceptual plan must show proposed property lines, proposed rights of way, proposed easements, proposed utilities and other infrastructure including the approximate size and location of anticipated site features such as stormwater treatment facilities, decorative outdoor plazas or entranceways, parking lots, landscape buffer areas, etc. The conceptual plan must contain the most recent Bradley County Property Appraiser's aerial photograph with the boundaries of the proposed PUD area drawn in. Existing topography of the site must be provided. Any floodway or floodplain areas within the proposed PUD area must be shown in the conceptual plan with reference to the appropriate Flood Insurance Rate Map panel. Existing right-of-way improvements, traffic control devices, driveway connections, utilities, fire hydrants, and drainage systems on-site and within two hundred (200) feet of the proposed PUD area are to be shown in the conceptual plan. At a minimum the conceptual plan must identify general appearance standards that would be adhered to in the development for building facades, exterior lighting, landscaping, etc. The conceptual plan must show building areas and locations, building heights, and parking lots and other impervious area features. The conceptual plan must show all internal traffic circulation, including pedestrian, and connections to the existing street and sidewalk systems. The conceptual plan must indicate all buffering at the project boundaries to include landscaping, walls, fences, berms, water features, etc. (where site constraints limit the width of such buffering, parking lots and minor accessory structures may be located so as to lessen impacts on adjoining property). The conceptual plan must show the proposed setbacks from internal and external property lines and building separation. It is understood that the foregoing conceptual plan contents describing future improvements are illustrative and that these may change as the project design advances, but the representations made in the conceptual plan should fairly depict the proposed project in terms of location, type, scale, orientation, quality, and performance. Additional information will be required for the conceptual plan review if warranted by the circumstances of the

proposed development: if the project is located on an arterial street and exceeds five acres or if the project is located on other than arterial street and it generates more than two hundred (200) vehicle trips in the peak hour a traffic impact study is to be provided; if the project site contains or is adjacent to any documented historical or archaeological resources, protected species or habitats, or wetlands such resources are to be described along with the potential project impacts, proposed mitigation, and compliance with any applicable laws; and if the proposed project involves heavy industrial or other processes that could be anticipated to have off-site impacts in terms of noise, vibrations, odors, or hazards (thermal, explosive, chemical), those impacts and their mitigation are to be described in accordance with professional standards. At the applicant's option, the conceptual plan may also include supplementary information such as architectural elevations, perspective drawings, proposed improvements in public spaces such as streetscapes, etc.

(3) PUD Conceptual Plan Approval. The conceptual plan is to be submitted to the planning director for review. The planning director will have the conceptual plan reviewed by the site plan review team and plat review teams as established by the zoning ordinance and subdivision regulations. After staff review, the planning director shall schedule the conceptual development plan for review by the Planning Commission. The Planning Commission will hear public comment and make a determination regarding the approval of the PUD Conceptual Plan. The Planning Commission may deny approval to the PUD Conceptual Plan, approve it subject to conditions, or approve it as submitted. Approval by the Planning Commission shall be specific as to the required content of the PUD Conceptual Plan including the area of the proposed PUD, the land uses allowed, the setbacks required, building height limitations, buffering and landscaping requirements, and any required performance standards deemed necessary (e.g. noise, light, odors, truck traffic restrictions, hours of operation, outdoor storage restrictions, etc.).

(4) Effect of Approving PUD Conceptual Plan. In no way would such approval by the Planning Commission exempt any eventual development from compliance with site plan,

building permit, soil erosion, and flood protection requirements nor would it obligate the City of Cleveland to construct any public improvements in support of the proposed development. Such approval does not change the underlying zoning of the property affected or otherwise place additional development rights or restrictions on the property. Such approval does not alter the rights of any owners or tenants of affected property as these may pertain to the use, sale, or subdivision of the property. Such approval does not authorize the eminent domain purchase of property by the City of Cleveland. Such approval does not obligate the City of Cleveland to approve a PUD Development Plan without any further stipulations or changes beyond those established in the PUD Conceptual Plan approval. Such approval does not constitute a reservation of capacity in public facilities or infrastructure. Such approval does authorize the property owners in the affected area, or a developer acting on their behalf, to pursue approval of a PUD Final Plan through the Planning Commission and the City Council. Approval of the PUD Conceptual Plan does result in an informational resource that may be used by City Council in planning, budgeting, and constructing public improvements, or in carrying out other planning activities. The PUD Conceptual Plan approval shall be in effect for a period of five (5) years after Planning Commission approval after which time it shall automatically sunset unless continued by the Planning Commission.

4.1.2.B PUD Development Plan Process

(1) Content and Effect of the PUD Development Plan. The PUD Development Plan is the means by which new zoning and other land development controls are enacted for an area where a PUD Conceptual Plan has been approved. The ordinance implementing the PUD will constitute the zoning classification of the area affected by the PUD. The PUD Development Plan may also encompass a subdivision of land and commitments by the owner(s) and developer(s) to construct various public infrastructure improvements. The PUD Development Plan is to be a recorded legal instrument, adopted by ordinance of the City Council, and binding upon the property owner(s), developer(s), heirs, and assigns. The PUD Development Plan will include information describing

the permitted uses, buffering and screening requirements, building setbacks, any necessary performance related standards (noise, lighting, hours of operation, etc.) any necessary monitoring, and reporting requirements (landscape maintenance, litter control, stormwater treatment maintenance, etc.), any necessary phasing schedule, any necessary public improvements to be installed by the developer, an acknowledgment that the owner is responsible to obtain and comply with all applicable federal, state, and local permits, and an expiration date after which the PUD Development Plan may expire. The PUD Development Plan would also include a master site plan, and subdivision plan if applicable, with all of the normal requirements for site plans and plats except as altered by the PUD. An approved PUD Development Plan does not constitute a reservation of public facility or infrastructure capacity.

(2) PUD Expiration, Phasing, Deviations, and Amendments. A PUD Development Plan may be allowed to expire after the expiration date if City Council determines that substantial progress has not been made, or is unlikely to be made, and that the public interest would be better served by reverting to the previous zoning. Prior to a City Council determination regarding such expiration, the matter is to be reviewed by the Planning Commission following the procedures for a rezoning. An existing PUD would not expire without an ordinance to that effect and City Council may extend the stated expiration date of a PUD by amending the ordinance. The PUD Development Plan maybe structured in one or more phases with appropriate engineering, architectural, and other drawings and documents to be submitted at the appropriate time before the construction of each phase. However, the PUD Development Plan shall control future phases and any substantial deviations will require amending the PUD Development Plan ordinance. Proposed changes in permitted uses, proposed decreases in approved setbacks by more than twenty percent (20%), proposed increases in approved building heights by more than twenty percent (20%),significant relocation or redesign of proposed public rights-of-way, significant stormwater management changes, and changes deemed to be substantial deviations by the Planning Commission will require an amendment to the

PUD Development Plan to be approved by the City Council after a review and recommendation by the Planning Commission. Changes to the PUD Development Plan that are not substantial deviations can be approved by the Planning Commission. The PUD Development Plan shall be advertised, posted, and heard by the Planning Commission and the City Council in the same manner as are zoning, and any amendment to an approved PUD Development Plan shall be processed in the same manner. (as amended by Ord. # 10, Jan. 2001, and Ord. #2008-21, June 2008)

4.2 Flood area overlay.

A. There is hereby created a flood area overlay zone. The extent of this zone shall be as defined in the Cleveland Flood Damage Prevention Ordinance.

B. All construction and development shall conform to the requirements of the Cleveland Flood Damage Prevention Ordinance.

4.3 Greenway overlay. [Reserved.]

4.4 Airport overlay. [Reserved.]

4.5 Infill development.

4.5.1 Purpose.

A. The infill development overlay district provides a means of varying site design requirements on smaller sites. Infill development is that development which occurs on scattered, non-contiguous sites where surrounding properties have been developed under site design standards which have been replaced by the current ordinance. These sites often have development problems through the inability of the site to meet current minimum requirements for lot area, lot width, building placement in conformance with setbacks or buffer requirements, or other standards. The purpose of infill development standards is to provide a means to vary site design requirements from current ordinance requirements and maintain compatibility with the development style and patterns of the surround area.

B. Designation of an infill development district shall not be a rezoning.

4.5.2 Site design requirements.

A. The maximum size to be considered for infill development shall be 1.99 acres.

B. The following site design standards may be varied.

(1) Lot width;

(2) Lot area;

(3) Front, side, and rear setbacks;

(4) Building orientation.

C. Each of the site design features in 4.5.2.b may be varied from the requirements for the zoning district. The new infill development standard shall be the average of the actual dimension for all lots on the same and opposing block within three hundred feet (300') of the boundary of the property in question.

(1) Actual setbacks, lot dimensions, and lot areas shall be determined for each lot on the same and opposing block within three hundred feet (300') of the boundary infill development lot for purposes of calculating an average (mean) for each standard to be imposed.

(2) These average standards shall be the minimum standards required for proposed development.

(3) Where there is any uncertainty on an applicable standard, the decision shall be in favor of the stricter standard.

(4) Building orientation shall conform to that for the streetscape where the proposed infill development is located. (as amended by Ord. #2013-48, Oct. 2013)

D. An infill development shall be compatible with adjacent and surrounding uses. A compatibility analysis shall be provided which demonstrates that the project does not create a greater impact on adjacent and surrounding properties than other uses in the same zoning district. Compatibility shall be measured according to scale of development (setbacks, building widths and heights), building orientation, building style and design, outdoor lighting, off-street

parking, and normal hours of operation. The compatibility analysis shall demonstrate that the proposed infill development use can exist in harmony with the neighborhood through a positive finding on each component of measurement.

4.6 Mobile homes and mobile home parks.

A. Definitions:

Except as specifically defined herein, all words used have their customary dictionary definitions where not inconsistent with the context. For this purpose certain words or terms are defined as follows:

1. Buffer strip shall mean an evergreen buffer which shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedge, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to not less than ten (10) feet.

2. Lot of record is a lot the boundaries of which are filed as a legal record in the Bradley County Register of Deeds office prior to the effective date of this ordinance.

3. Mobile home (trailer) shall mean a detached single-family dwelling unit with any or all of the following characteristics:

    a. Is not self-propelled, but is transportable on its own or detachable wheels, or on a flat bedded or other trailer, in one or more sections which in the traveling mode is eight (8) body feet or more in width, or thirty-five (35) feet or more in length, or when erected on site is three hundred twenty (320) feet or more square feet;

    b. A single, self-contained unit that is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities;

c. Includes the plumbing, heating, air conditioning, and electrical systems contained therein; and

d. Includes any units which meet the definition of a mobile home as defined by National Codes, Federal Legislation, or Tennessee Code Annotated.

Except that such terms shall also include any structure which meets all of the requirements of this section, except the size requirements, provided the manufacturer complies with the standards established under Tennessee State Law.

4. Mobile home park is an area of land used by the landowner for the accommodation of three (3) or more mobile homes to be used for dwelling or sleeping purposes.

5. Mobile home space is an area of land used or intended for the use of one mobile home.

6. Mobile home subdivision is a subdivision of land specifically created to accommodate mobile homes on individual lots which are sold in fee simple.

7. Non-conforming use is a mobile home that is not located either on a single lot of record as the principal structure or in an approved mobile home park prior to the effective date of this ordinance.

8. Principal structure is the mobile home used as the main residential structure on the lot.

9. Skirting is the permanent enclosure of the space between the ground and the floor of the mobile home unit with weather resistant, compatible materials.

B. Plan R-4 zoning, permits required. A process is required for mobile home parks and travel parks. Fees charged under the permit requirement are for inspection and the administration. Property must be zoned R-4 and a mobile home park plan approved by the Cleveland Municipal Planning Commission prior to the issuance of a permit.

C. Location of mobile homes restricted. The location of a mobile home is allowed inside the Cleveland Corporate Limits only in either of the following situations:

1. An existing mobile home, located on a single lot as the principal structure and serviced by public utilities on the effective date of this ordinance; or

2. An approved mobile home park.

D. Upgrade of substandard or single lot mobile home. A single mobile home, located on a lot of record as the principal structure on the effective date of this ordinance, may be upgraded by replacement under the following conditions:

1. The replacement mobile home unit is five (5) years old or less on the date the unit is placed on the lot;

2. Complete skirting of the replacement unit, using weather resistant materials that are similar to the new mobile home.

E. Non-conforming use--remedy. The owner or occupant of any non-conforming mobile home already placed on a lot, on or before _______ will be permitted to reside at the present location. However, if at any time the ownership or occupancy of either the lot or mobile home shall change or if such mobile home owner shall change, the owner shall be given a period not to exceed thirty (30) days in which to remove such mobile home and to comply with all provisions of this chapter.

F. Administration and enforcement. It shall be the duty of the city building inspector to administer and enforce the provisions of this chapter. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this ordinance.

G. Compliance. To insure compliance with the provisions of the mobile home ordinance, utility services will be connected only when the mobile home has been found by the chief building inspector to meet applicable code requirements and the chief building inspector has issued the appropriate permit(s).

Cleveland Utilities, Electric and Water Division, shall be presented with a copy of the mobile home permit, signed by the chief building inspector, as part of the owner(s) application for utility services. Should the owner or applicant fail to provide a signed copy of the permit, Cleveland Utilities shall deny service until the proper procedure to acquire permit(s) is completed.

H. AUTHORIZATION. The chief building inspector is authorized to suspend or revoke a mobile home or mobile home park permit in cases where the owner(s) failure to comply with the provisions of this ordinance or other applicable city code has resulted in a threat to the public health, safety or welfare.

I. MINIMUM SIZE. The tract of land for the mobile home park shall comprise an area of not less than one and one-half (1 ½) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

J. MINIMUM NUMBER OF SPACES. Minimum number of spaces completed and ready for occupancy before first occupancy is three (3).

K. MOBILE HOME PARK DESIGN STANDARDS.

1. SITE REQUIREMENTS. Each mobile home park shall be located outside of flood hazard areas on a well-drained site.

2. MINIMUM MOBILE HOME PARK SIZE. One and one-half (1 ½) acres.

3. SIZE OF MOBILE HOME SPACES. Each mobile home space shall be at least four thousand (4,000) square feet, including parking area, with a minimum width of forty (40) feet. Each mobile home located in a mobile home park shall be situated such that there is at least:

a. Ten (10) feet from the mobile home to any adjacent property line;

b. Twenty-five (25) feet from the mobile home to any public street right-of-way;

c. Ten (10) feet from the mobile home to any private roads or access drives within the mobile home park;

d. Ten (10) feet of clear and open space between the mobile home and any adjacent mobile home and its attachments, and between the mobile home and any other buildings;

4. Applications for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

a. The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one inch;

b. Name and address of owner of record;

c. Proposed name of park;

d. North point and graphic scale and date;

e. Vicinity map showing location and acreage of the mobile home park;

f. Exact boundary lines of the tract by bearing and distance;

g. Names of owners of record of adjoining land;

h. Existing streets, utilities, easements, and watercourses on and adjacent to the tract;

i. Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;

j. Provisions for water supply, sewerage and drainage;

k. Such information as may be required by such city to enable it to determine if the proposed park will comply with legal requirements;

l. The applications and all accompanying plans and specifications shall be filed in triplicate.

5. Certificates that shall be required are:

a. Owners certification;

b. Planning commission's approval signed by the chairman; and

c. Any other certification deemed necessary by the planning commission.

L. STREET CONSTRUCTION STANDARDS. Same as city minimum construction standards for acceptance of streets dedicated to the city for use and maintenance of public ways.

M. APPEALS. Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this ordinance may appeal for and receive a hearing by the Cleveland Board on Zoning Appeals (BZA), (advised by the city attorney) for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of the chapter, the Cleveland Board on Zoning Appeals, with advice from the city attorney, may, in conformity with the provisions of this ordinance, reverse or affirm any order, requirement, decision or determination made by the building inspector.

Any person aggrieved by any decision of the BZA may seek review by a court of records of such decision in the manner provided by the laws of the state.

N. MOBILE HOMES OR PARKS IN ANNEXED AREAS. A mobile home or mobile home park that is annexed into the Cleveland corporate limits and is found to be of substandard condition or not in conformity with the provisions of this ordinance and/or the Standard Housing Code, Southern Building Code Congress International, as amended shall be provided a period of not to exceed two (2) years from the effective date of annexation to comply with applicable law. Should the owner(s) fail to comply within the time provided, the unit(s) shall be

declared as a non-conforming use by the chief building inspector or housing official, as appropriate, and the provisions of the Cleveland Municipal Zoning Ordinance, § 10-206, non-conforming uses shall apply to remedy the non-conforming use.

O. CHARGES. Fees shall be charged as follows for mobile home park permits:

1. PERMIT FEE. A fee of twenty-five dollars ($25.00) per mobile home unit space in addition to the basic permits as provided by city law as amended.

2. ANNUAL OPERATING FEE. An annual fee of ten dollars ($10.00) per mobile home unit space, payable by June 30 of each year is required to operate a mobile home park inside the city limits.

4.6.1 Animal hospitals, sound transmission class.

"Animal hospitals, as permitted see Table 1, provided that the finished structure attain a Sound Transmission Class rating of a minimum of 50 db, except for areas designed for office, administrative or other areas where animals are not treated or boarded...sanitary facilities design to aid in cleansing, and maintaining the building's interior shall be incorporated into the materials used to construct the building."

4.7 NONCONFORMING USES AND DEVELOPMENT.

Any lawful use of building or land existing at the time of the enactment of this ordinance, or whenever a district is changed by an amendment thereafter, may be continued although such use does not conform with the provisions of this ordinance, with the following limitations:

4.7.1 Continuation of nonconforming use. No building or land containing a nonconforming use, except commercial and industrial uses as provided by Tennessee Code Annotated, § 13-7-208, shall hereafter be extended unless such extension shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly designed for such use prior to the time of enactment of this ordinance;

Any building or site containing a lawful nonconforming use shall not be changed to any other nonconforming use unless it is determined by

the Planning Commission that such use is less offensive than the previous use;

4.7.2 Rebuilding of nonconforming use. Any nonconforming building which has been damaged by fire or other cause may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than fifty (50) percent of its appraised value for tax purposes, in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance;

4.7.3 Amortization of nonconforming uses.

Any salvage yard and recycling center meeting the requirements of section 2.11 and continuing to operate in accordance with section 2.22 may continue for a period of 2 years from May 9, 2016. (as replaced by Ord. #2016-17, June 2016)

4.7.4 Special policy within central city area. In the area bounded by Inman Street to the north, APD-40 to the south, Wildwood Avenue and Dalton Pike to the east, and Ocoee Street and Blue Springs Road to the west, there are areas of single-family residential development that are zoned for industrial use. This was done when Cleveland had a pyramid zoning structure that allowed residential development in industrial zones but this is no longer the case so these homes have become non-conforming uses. Decades of economic and technological change together with relocation of nearby industry indicate the need for redevelopment within this area, including new and rehabilitated housing. Industrially zoned residential sites that have long been in residential use, especially where these are clustered and not located adjacent to the railroad, arterial streets, or truck routes, can be important areas for reinvestment in housing that will support area-wide redevelopment and assist current residents in staying in the area should they so choose as well as new residents who may wish to move into the area. Therefore, where the Cleveland Municipal Planning Commission has determined that an industrially zoned one- or two-family dwelling meets the locational criteria described in this paragraph, and that the aforesaid dwelling has received substantial recent upgrades or repairs, the Planning Commission will issue a written determination that the dwelling can be re-built if damaged beyond 50% of its appraised value, paragraph 4.7.2 notwithstanding. In order to obtain such a determination from the Planning Commission, it is the responsibility of the owner to make the request in writing and to supply all necessary documentation of recent

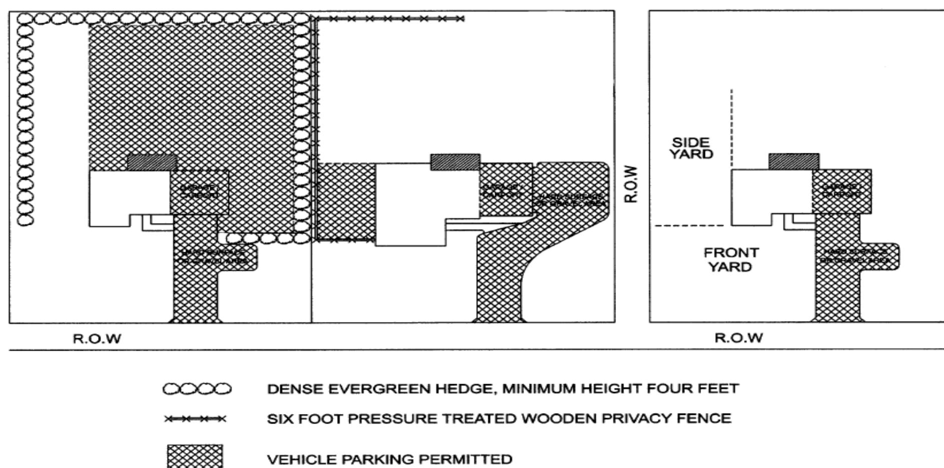
upgrades and repairs. (as amended by Ord. #2013-38, Aug. 2013, and Ord. #2014-04, Feb. 2014)

4.8 YARD PARKING OVERLAY

Based upon a petition from property owners within a defined neighborhood area and the advice of the Cleveland Municipal Planning Commission, the City Council may amend the official zoning map, following proper procedures for such an amendment, to apply the Yard Parking Overlay district described herein. It is the intent of this district to protect the public welfare by mitigating the effects of heavy parking use in historically single-family neighborhoods by controlling parking in street-side yard areas and limiting the conversion of yard areas into gravel or hard surface parking areas so as to protect neighborhood aesthetics and environmental quality.

A. Vehicle parking in front or side yard areas of a lot or parcel lying between a single-family residential structure and a property line that adjoins a public right-of-way shall be limited to the area of the hard-surface or gravel driveway unless such parking occurs within a garage or under a carport. Vehicle parking in side yards not adjoining public rights-of-way or in rear yards shall be screened by means of a hedge or privacy fence. Nothing herein shall be construed as allowing the location of a garage or carport or fence except where otherwise allowed by the zoning ordinance.

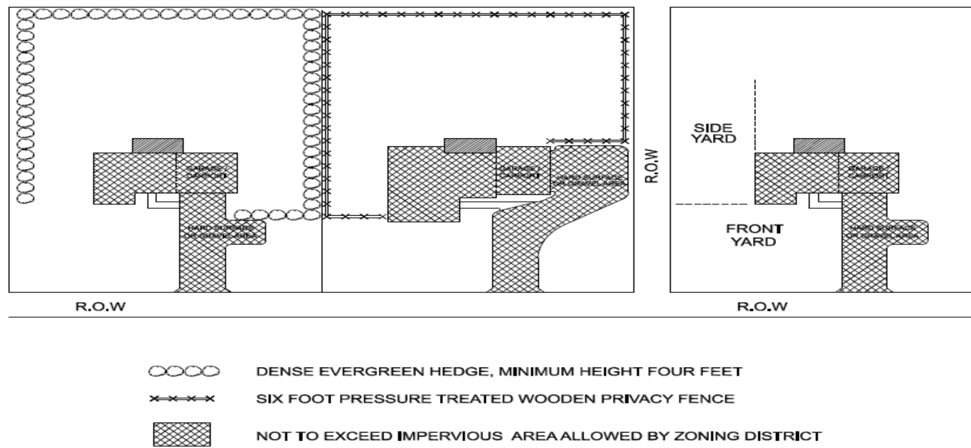
WHERE VEHICLE PARKING IS ALLOWED IN YARD PARKING OVERLAY DISTRICT



B. Hard-surface or gravel driveway or parking areas shall not be constructed such that these cause the lot or parcel to be in violation

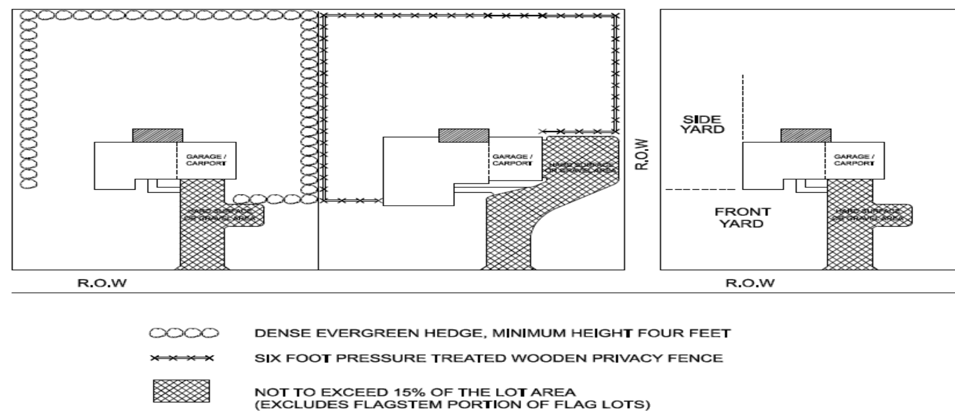
of the zoning ordinance requirements related to impervious or pervious surfaces or green space.

IMPERVIOUS AREA NOT TO EXCEED MAXIMUM ALLOWED BY ZONING DISTRICT



C. The total of hard-surface or gravel driveway or parking areas on the lot or parcel with a single-family home shall not exceed 15% of the lot area, excluding any area in the "flag stem" of a flag stem lot and any area underneath the roof of a permanently constructed garage or carport. The area of the house, excluding the garage or carport, shall not be counted toward the 15% of the lot area for purposes of this paragraph.

HARD SURFACE PARKING AREA NOT TO EXCEED 15% OF LOT AREA



(as added by Ord. #2008-12, April 2008)

5.0 SIGN REGULATIONS.

5.1. Purpose and Intent of the Sign Regulations

The purpose and intent of these regulations is to provide for the public health, safety, convenience, and general welfare through the regulation of signs within the City of Cleveland, Tennessee. Among the specific intentions are to limit visibility hazards along and adjacent to roadways, to protect utilities and drainage structures from encroachment and damage from sign installation, to protect the community and its roadway corridors from visual clutter, and to protect the community and its environment from discarded, damaged, or improperly installed signs. It is not the purpose of these sign regulations to regulate speech.

5.2. Sign Standards

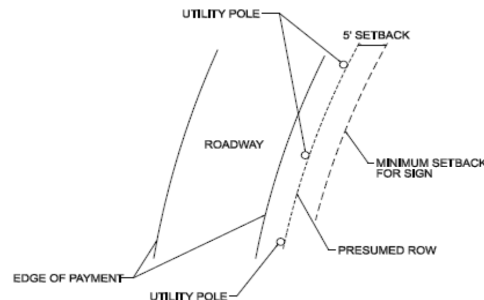
Section 5.2.1 below presents general standards for all signs and standards for specific types of signs under various circumstances. These general standards are each denoted by an alphabetic character and are shown in bold type. Text beneath each general standard provides guidance for implementing the standard. Critical to understanding the application of these standards in particular circumstances are the administration and definitions sections found further below.

5.2.1. General Sign Standards

5.2.1.A. No part of any sign shall be located within 5 feet of any public right-of-way except as expressly provided herein.

No part of any sign that is regulated by this ordinance shall be located in any public right-of-way or within 5 feet of any public right-of-way (actual or presumed right-of-way location as described herein). In the absence of survey information to establish the actual right-of-way location, the presumed location of the right-of-way (see drawing below) will be determined by a line, curve, or series of line segments that approximately parallels the roadway edge of pavement and is tangent to the inside (opposite the roadway) of public utility poles on either side of the existing or proposed sign location. If the presumed right-of-way location can not be determined in the previously described manner due to unusually complicating factors, the presumed right-of-way will be assumed to be not less than 10 feet from the existing edge of pavement of the adjacent roadway. The presumed right-of-way method may be used to determine the proper location of portable signs and other signs except ground signs that

require building permits and engineered plans. Ground signs requiring building permits and engineered plans shall require a survey meeting the requirements of this ordinance.



5.2.1.B. No sign shall be located so as to impede the travel of pedestrians.

No sign shall be located so as to impede the travel of pedestrians, including those in wheelchairs and motorized chairs, who are traveling in public sidewalks, or so as to force pedestrians to detour around the sign by using a travel or turning lane of a public street where there is no adjacent public sidewalk.

5.2.1.C. No sign shall be produced or built or erected or installed or located in a manner that violates any applicable building, electrical, fire, or life safety code.

Where required by any applicable building, electrical, fire, or life safety code, any mandatory plan review, permit, or approval shall be obtained prior to the installation of a sign. Any sign requiring a building permit shall also require a sign permit.

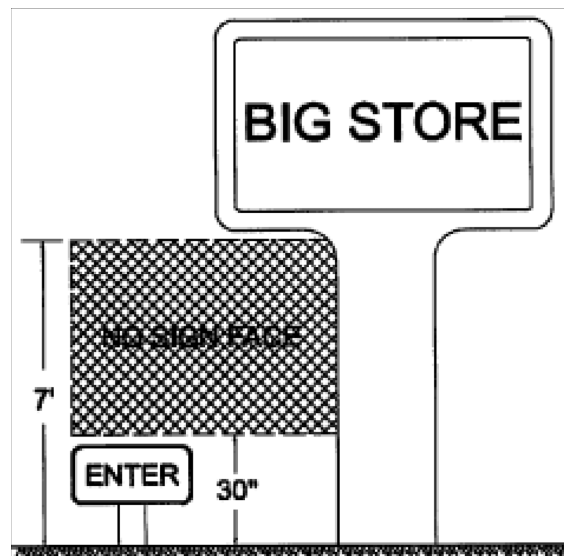
5.2.1.D. No sign shall be located in a manner that would interfere with the safe and convenient operation and maintenance of a utility.

Compliance with this standard with respect to electrical facilities shall be determined by the application of clearance standards found in the 2007 National Electric Safety Code. Any sign installation which would otherwise be required to go through the Tennessee One Call system for the protection of underground utilities must go through that process for underground utility location. In the absence of stricter conditions of any utility easement or applicable code, no part of any sign structure may be located within 4 feet of any above-ground or

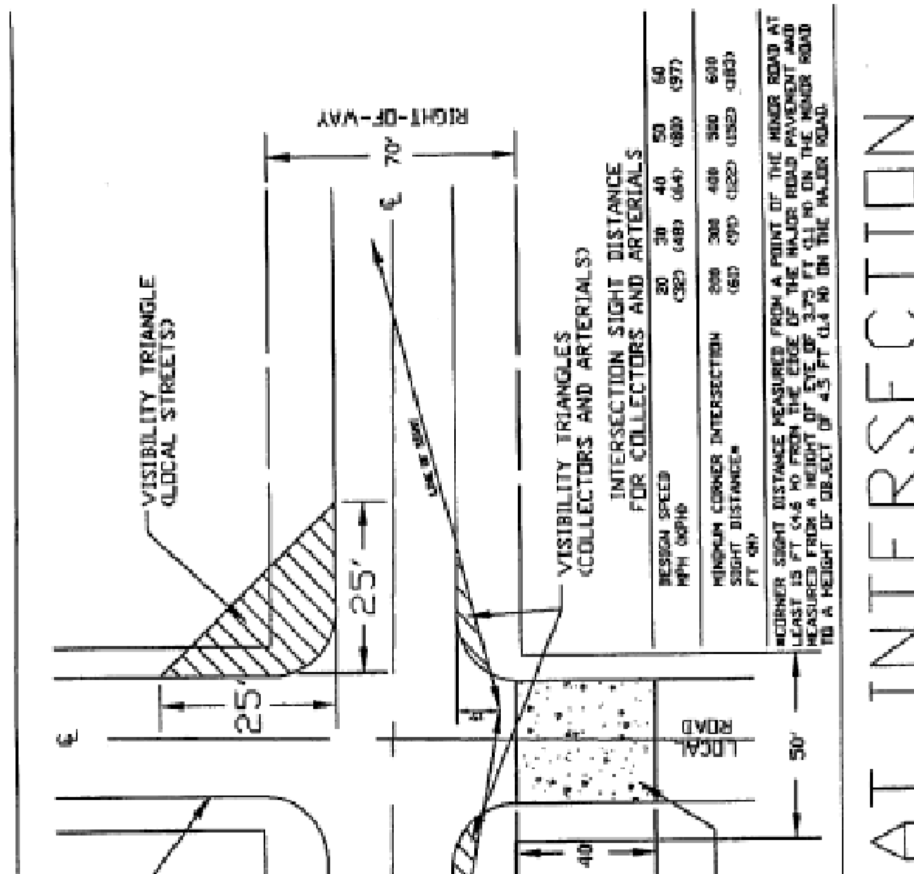
underground utility facility or any public or privately maintained drainage structure, unless specifically approved in writing by the affected utility and the City Engineer (the foregoing prohibition does not affect the separation of portable signs from above ground drainage facilities and utility facilities except energized above-ground electrical facilities).

5.2.1.E. No sign shall be located so as to impede visibility by turning motorists.

Observance of required setbacks is important to maintaining visibility but the topography and other features near a sign may also affect where it is possible to safely locate the sign. At an exit drive where the view of oncoming traffic or a conflicting turn movement could be obscured by the location of a sign, the sign face is to be located not higher than 30 inches from the ground or not lower than 7 feet from the ground.



Visibility triangles on adjacent streets are to be preserved in accordance with the drawing below:



5.2.1.F. No sign shall be an animated sign as defined herein.

This prohibition includes, but is not limited to, flashing lights and strobe lights inside building windows that are visible from the public right-of-way. Also prohibited are sign designs that incorporate motion through mechanical, electrical, wind-activated, water-activated, or similar means. These prohibitions apply to billboards and all other types of signs visible from the public right-of-way except as otherwise provided herein.

5.2.1.G. No sign of any type that is situated on private property and visible from a public right-of-way shall be made to resemble a traffic control device.

Traffic control devices are described in the Uniform Manual of Traffic Control Devices (can be viewed in the City Engineer's office). What is prohibited here is the use of devices like stop signs or traffic signals as a sign to attract attention to a business, property, product, or service rather than for their proper use in traffic control. This is not intended to preclude the placement of appropriate signage for the purpose of traffic control on private driveways (e.g. "stop", "yield to pedestrians", etc.), including in those areas near the intersection of such private driveways with public rights-of-way.

5.2.1.H. No sign of any type shall be allowed to be situated on any property except as allowed by this ordinance.

This ordinance regulates signs that are intended by their size, placement, or other characteristics to be read from the public right-of-way or to attract the attention of persons in the public right-of-way. This rule is not intended to prohibit signs that otherwise comply with this ordinance where their visibility from the public right-of-way is merely incidental and it is evident from the size and placement of the sign and/or the size of the sign copy that it is intended exclusively for persons on the property where it is located.

5.2.1.I. Signs shall be kept in good repair, or replaced or removed.

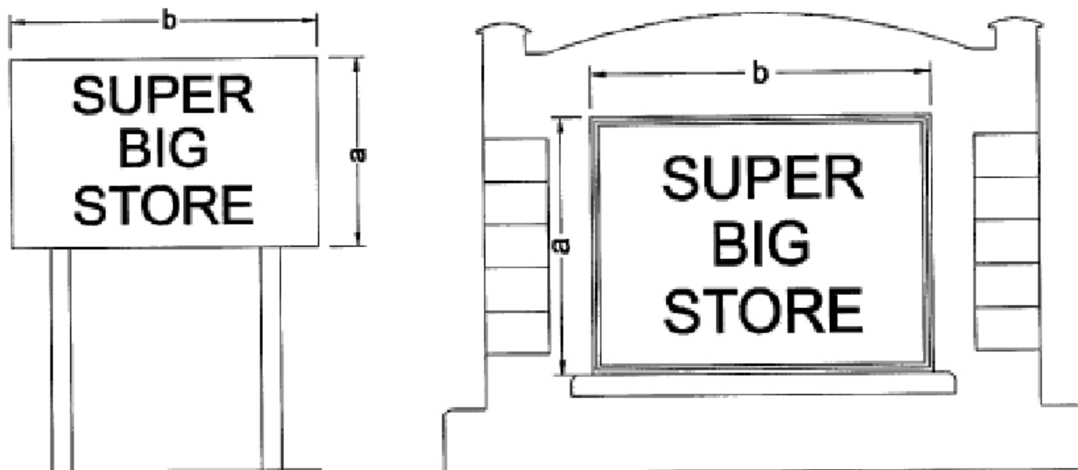
No part of the sign copy, sign backing, or sign structure shall be allowed to remain in place if it is bent, torn, ripped, tattered, frayed, broken, cracked, faded, dirty, rusted, rotted, warped, or with blistered or peeling paint, or otherwise visibly damaged or damaged in any other way. This rule is not intended to create an unreasonable requirement that signs be kept in a pristine state but it is intended to require that they remain safe, functional, and reasonably well-maintained so as to not become a hazard or a blighting influence. If a sign is bent over, illegible due to fading, in danger of falling, unsafe in its electrical connections, full of holes, blowing loose, or otherwise showing clear signs of a lack of reasonable maintenance, it must be repaired, replaced, or removed.

5.2.1.J Sign display area for a given sign shall not exceed the maximum allowed by this ordinance.

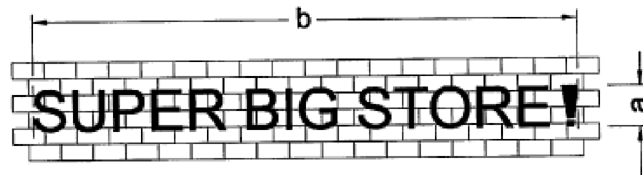
The maximum allowable area in square feet is given for the sign display area or sign backing for each sign types in the rules specific to each sign type. A procedure for measurement is described below.

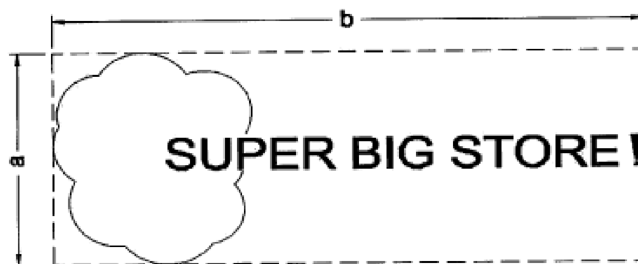
Sign display area shall be measured according to the procedures outlined herein. (In the several illustrations that follow, height is denoted by a and length is denoted by b, with a times b being the formula for a rectangle used to calculate the sign display area.) In cases where a permit is required the applicant must submit an elevation drawing of the proposed sign with the necessary dimensions and calculation of the sign display area. Where a permit is not required, the Building Official may perform a courtesy check of the proposed sign display area if a drawing with the appropriate information is supplied (signs are not allowed to exceed the maximum allowable size regardless of whether a permit is required).

(1) Where there is a discernable sign display area that is distinguished from other parts of the sign structure by a frame or border, or by a variation in color, texture, or material so that the sign display area can be distinguished as a polygon from the rest of the sign structure, draw the smallest rectangle that will fit around the polygon [see below for specific instructions on sign cabinets]. Where one or more frames or borders are used to form the polygon, the measurement shall be from the inside edge of outermost frame or border. Within a single sign structure, there may be more than one such polygon, i.e. more than one discernable sign display area, and the total of the areas for the rectangles drawn around these polygons will be the sign display area. When calculating the sign display area, subtract any overlapping area between two or more of the rectangles.



(2) Where there is no discernable sign display area and sign copy is painted on or affixed to a surface such as a wall or monument sign structure, the sign area measurement shall be done through the grouping of individual elements of the sign copy. Symbols and drawings, and text and numeric sign copy, including any words, letters, numerals, and punctuation, that can be connected by line segments of 10 feet or less in length will be grouped together and the smallest rectangle that will fit around this grouping will be drawn. Beginning with the symbol, drawing, word, letter, numeral, or punctuation closest to the upper left edge of the sign structure, work downward and to the right drawing connecting line segments of not more than ten feet in length between any two symbols, drawings, words, letters, numerals and punctuation that can be connected in this manner to form a sign copy grouping. This sign copy grouping is to be enclosed in the smallest possible rectangle. Continue this process until rectangles have been formed around all words, letters, numerals, and punctuation on the sign structure. The combined area of the rectangles drawn for all sign copy groupings on a sign structure is the sign display area. When calculating the sign display area, subtract any overlapping area between two or more of the rectangles.





SUPER BIG STORE

GREAT $ PRICES!

LEGEND

FACADE AREA = a_f x b_f

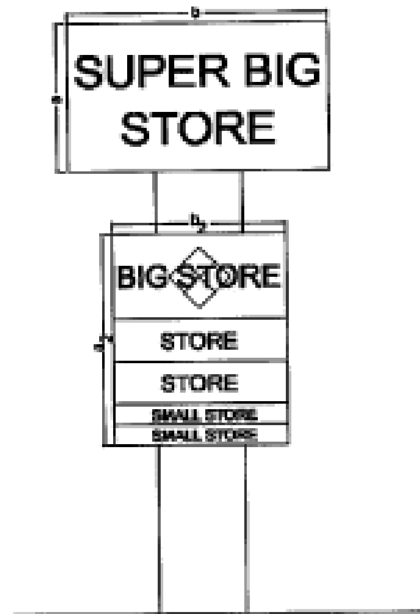
WALL SIGN 1, PAINTED LETTERS ON A WALL, NO DISCERNABLE SIGN DISPLAY AREA
— LESS THAN 10'

SIGN DISPLAY AREA ▭ EQUALS a_1 x b_1

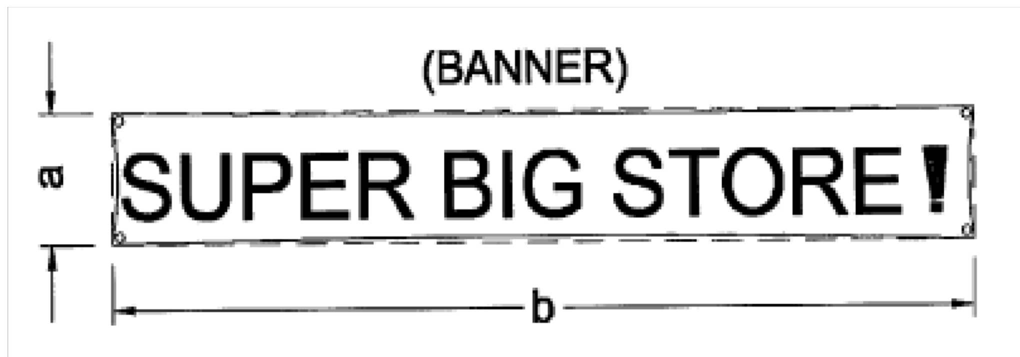
WALL SIGN 2, PAINTED PRICE TAG DESIGN, DISCERNABLE SIGN DISPLAY AREA
- - - - - MORE THAN 10'

SIGN DISPLAY AREA ▭ EQUALS a_2 x b_2

(3) Sign display areas may exist on more than one sign face on a single sign structure; this is particularly the case with ground signs, canopy signs, and projecting signs but could also exist with other sign types. Sign display area should be calculated for all sign faces to determine the total sign display area for a given sign but where two sign faces overlap such that they are back-to-back or separated by an interior angle of 30 degrees or less the total sign display area should be adjusted to count the sign display area on only one of these sign faces in the overlapping area.

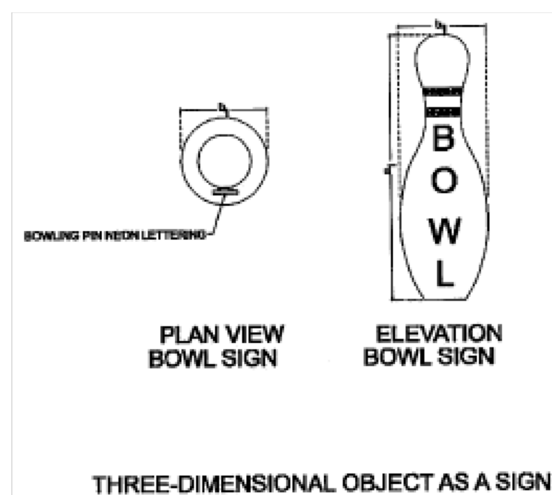


(4) In the case of a banner sign, the sign display area is the smallest rectangle into which the banner will fit when pulled taut.



(5) In the case of signs with sign cabinets with interior lighting or backlighting, e.g. most Type C portable signs, the method described above for a discernable sign display area shall be followed for calculating the sign display area except that the polygon will be determined by the interior dimensions of the sign display cabinet.

(6) Where sign copy is to be located on a curved or other irregular surface, the dimensions of the sign display area are to be measured as if a flexible measuring tape were stretched across the surface and these dimensions are to be transferred to a single plane and enclosed by the smallest rectangle that will include them, otherwise following the procedures described above for signs with or without a discernable sign display area, as the case may be.



THREE-DIMENSIONAL OBJECT AS A SIGN

5.2.1.K. Lighting of signs shall not be such that it causes discomfort or distraction for passing motorists and pedestrians or such that it otherwise violates this ordinance or other applicable law. Lighting of signs, whether internally or externally lighted, and lighted copy signs are subjects of these sign regulations. Brightness of the illumination of signs shall not be such that it causes discomfort or distraction for passing motorists and pedestrians, and LED (light emitting diode) and similar electronic signs shall be deemed to be causing discomfort and distraction if they fail to meet the guidelines described herein. Electronic reader boards, electronic message centers, LED (light emitting diode) signs and the like shall be equipped with and operated with automatic dimming devices that reduce the brightness of the display during cloudy or dark conditions. It is intended that such LED signs and similar signs be no brighter than is necessary to be visible and legible to motorists and pedestrians in the immediate vicinity during daylight or dark conditions and it is not intended that such signs would be substantially more visible and legible from a greater distance than traditional on-site signs with back-lighting. [Guidelines for LED and similar technology: maximum brightness for signs using LED (light-emitting diode) or other lighting technology where the light source is used to compose the sign copy should not exceed 300 nits under nighttime conditions. A nit equals Candelas per meter squared (cd/m2). A Candela is the amount of luminous flux (total luminous power emitted from a source and expressed in Lumens) per unit solid angle in a given direction. A Lumen is the luminous flux emitted per unit solid angle from a uniform point source whose luminous intensity is 1 Candela. Definitions from Marktech Optoelectronics www.marktechopto.com/Engineering-Services.]

Electronic reader boards, electronic message centers, LED (light emitting diode) signs, and the like shall not be within 300' of any residential zoning district unless the view from residences is obscured. The sign display area shall be no more than 50 square feet. Notwithstanding the aforementioned size requirement, commercial complexes with over 100,000 square feet of finished floor space that is either under common ownership or part of a common development plan that includes a signage agreement that allots the allowable LED signage area, and is located within the Commercial Highway zoning district shall be permitted one square foot of LED wall signs and the like for every 1000 square foot of finished floor space but not exceeding over 200 square feet total nor 100 square feet in any one sign.

Lighting of signs shall not be done in a manner so as to produce motion or animation as defined herein; however, this is not intended

to prohibit the scrolling of an image onto a sign face provided that the entirety of the sign copy remains stationary for a period of at least six seconds. The lighting of the sign shall be sustained and not flashing or blinking or pulsing. The focus of external lighting shall be on the sign backing and shall be shielded so as to prevent glare onto an adjacent public right-of-way or into the eyes of motorists or onto adjacent property. Where external lights are mounted below a sign, at or near ground level, they shall be shielded by landscaping on the side opposite the sign. Monument signs, pole signs, wall signs, canopy signs, awning signs, roof signs, and Type C portable signs are allowed to be internally or externally illuminated except where otherwise prohibited by this ordinance. (as amended by Ord. #2014-24, June 2014, and replaced by Ord. #2015-07, March 2015)

5.2.1.L. No sign that is regulated by this ordinance and which is an off-premise sign with a sign display area greater than 32 square feet is allowed unless it conforms to the regulations in this ordinance for billboards.

5.2.2. Specific Standards by Sign Type

5.2.2.A. Ground Signs (not Portable)

(1) Sign permits are required.

(2) Building permits shall be obtained for ground signs where required by the Building Code. The Building Official may require plans sealed and signed by a Tennessee-registered professional engineer (criteria for determining whether engineered plans are required are if the sign display area exceeds 100 square feet, or if the sign will be over 20 feet tall, or if engineered plans are otherwise required by the Building Code or by Tennessee's Board of Architectural and Engineering Examiners). Ground signs requiring building permits and engineered plans shall require a survey of the property frontage along which the sign is to be located showing the center line of the roadway, the existing edge of pavement, any utilities and utility easements, any drainage structures, any driveways and sidewalks, and any other permanent structures, signs and traffic control devices. The survey shall identify the location of the proposed sign and cover the property to a depth of at least 5 feet behind all parts of the proposed sign along the entire width of the

property frontage. In the case of a corner lot, the foregoing survey information shall be provided for both frontages.

(3) Sign structures exceeding 15 feet in height from the ground shall not have a width as measured horizontally in an exterior elevation view at any point above the ground, exclusive of any sign display area or sign backing, which is more than 50% of the sign's height.

(4) Developments with residential or non-residential uses may have monument or pole signs subject to the provisions of this ordinance (mixed uses that are 25% or more residential by land area or floor area are treated as non-residential development for ground signage calculation). Each development is entitled to at least one monument or pole sign along its primary street frontage, with the maximum sign display area of said sign to be determined by the table below, provided that the building(s) is at least 10 feet behind the public right-of-way along that frontage. The limits on the number and size of allowable ground signs are determined by considering the rules in this section governing ground signs in conjunction with the following table:

Allowable Ground Sign(s)	Development Type	Development Size	Adjacent Roadway Frontage(s)
2 (but zero if fewer than 10 dwelling units or residential lots). Sign display area 32 sq. ft. or less per sign	Residential subdivision or multi-unit residential development	10 or more dwelling units or residential lots	NA
1 per adjoining 2-lane street with at least 100 feet of frontage. Sign display area not to exceed 100 sq. ft.	Non-residential	Less than 3 ac or less than 100,000 under single roof	2 travel lanes
1 per adjoining 4-lane street with at least 100 feet of frontage. Sign display area not to exceed 150 sq. ft.	Non-residential	Less than 3 ac or less than 100,000 sq. ft. under single roof	4 or more travel lanes

1 per adjoining street with at least 100 feet of frontage. Sign display area not to exceed 300 sq. ft. in 1 ground sign and not more than 150 sq. ft. in other ground sign(s).	Non-residential	3 ac or more or at least 100,000 sq. ft. under a single roof	NA

(5) Where there is a tract, parcel, or lot of at least two acres in size with commercial or industrial zoning (zoning for these uses may also be through PUD process) that is within 1000 feet of an I-75 interchange, it is entitled to one (1) on-site interstate-oriented sign that is at least 75 feet high provided that no other sign on the property exceeds 60 feet in height. A portion of the sign display area for this on-site interstate-oriented sign may be a changeable copy sign that can be an electronic sign presenting a monochromatic display of alphanumeric characters without flashing, motion, or the appearance of motion. This sign is in addition to other ground sign(s) that may be located on the property. However, this provision allowing an additional interstate-oriented sign shall not apply if any other sign on the property exceeds 60 feet in height. No sign installed in accordance with this paragraph shall be an off-premise sign. No sign installed under this paragraph shall be in violation of the Tennessee Department of Transportation rules for on-premise signs as promulgated in the administrative rules for the control of outdoor advertising, most particularly in 1680-2-3-.06 of Tennessee's Administrative Rules. It is the intent of this paragraph to allow a larger interstate-oriented on-site sign with a larger changeable copy area for a larger site if that sign advertises more than one on-site business located on a larger site that otherwise meets the zoning and distance criteria of this paragraph, in accordance with the parameters in the table below:

On-Site Interstate Oriented Signs			
Minimum Site Size (Acres)	Minimum on-site businesses on sign	Maximum sign display area (square feet)	Maximum Changeable Copy Area (square feet)
2.00-2.99	1	350	100

3.00-3.99	2	600	200
4.00 and above	3	1000	300

(as amended by Ord. #2012-02, Feb. 2012)

5.2.2.B. Wall Signs, Canopy Signs, and Awning Signs

(1) The signable square footage for all wall signs, canopy signs, and awning signs, individually or in combination, shall not exceed 40% of the area of the facade on which they are located. The signable square footage may be allocated over the façade in one or more sign display areas. The sign backing for any portable signs (e.g. banners) displayed as wall signs would count toward the 40%. The sign display area of any mansard sign and/or roof sign shall be counted against the maximum allowable wall signage.

(2) No sign backing or sign structure for a wall sign, canopy sign, or awning sign shall be located so as prevent a door or window from operating as designed, or in a manner which blocks any fire escape, building drainage, ventilation, or any required clearance for any mechanical equipment, or any utility connection or fire department connection.

(3) Building permits shall be obtained for wall signs, canopy signs, and awning signs where required by the Building Code. The sign installer or property owner will be required to demonstrate that the existing and proposed wall signage do not exceed the maximum allowable wall signage. An engineered plan will be required by the Building Official if an engineered plan is otherwise required by the Building Code or the requirements of Tennessee's Board of Architectural and Engineering Examiners.

(4) Wall signs, canopy signs, and awning signs in R1, R2, R3, R4, and RA zoning districts are not allowed on residential structures containing fewer than five dwelling units and are not allowed to be internally or externally lighted.

5.2.2.C. Portable Signs

Characteristics of Portable Sign Types			
	Size	**Lighting**	**Electronics**
Type A	4 square feet or less	Not Allowed	Not Allowed
Type B	More than 4 sq. ft. but not more than 32 sq. ft.	Not Allowed	Not Allowed
Type C	32 sq. ft. or less	Allowed	Allowed

For purposes of this ordinance, all portable signs which have four square feet or less of sign backing and which are not designed to incorporate lighting or other electronics shall be classified as Type A portable signs; portable signs which have more than four square feet of sign backing and which are not designed to incorporate lighting or other electronics shall be classified as Type B portable signs; and portable signs which are designed to incorporate lighting or other electronics shall be classified as Type C portable signs.

(1) No portable sign of any type shall have a sign display area greater than 32 square feet.

(2) All Type C portable signs shall be legibly marked with the name, address, and telephone number of the sign owner.

(3) No flashing or intermittent lights shall be activated on or within a Type C portable sign. Type A and Type B signs shall not be lighted or illuminated in any way except through incidental ambient light in the sign location.

(4) No part of any portable sign shall be at a height of greater than 10 feet from the ground except within five feet of a building or building canopy.

(5) No part of any portable sign shall be within 10 feet of a driveway entrance to a public street.

(6) Type B and Type C portable signs shall be configured and installed so as not to present a hazard during wind events. Type B portable signs with a sign backing of more than 16 square feet must utilize a lightweight sign backing and

avoid heavy, dense material such as plywood. Type C portable signs must be installed according to the instructions of the manufacturer so as to avoid being blown over or torn down in a 80 mph wind event, or installed so as to turn over once and then remain in place in such a wind event (in such case, installation shall allow a clear area equal to the height of the sign on either side of it).

(7) The sign backing of portable signs that are displayed as wall signs will be counted in determining whether the sign display area for wall signs is being exceeded.

(8) Type A, Type B, and Type C portable signs do not require building permits or sign permits but they must otherwise comply with the requirements of this ordinance.

(9) No portable sign of any type shall be located on any property without the express permission of the owner of that property.

(10) This paragraph addresses standards for portable signs of all types. Unless otherwise stated, or unless modified by a zoning overlay district, the sign standards stated for each land use type shall apply in all zoning districts. No portable sign of any type that is on a lot, tract, or parcel developed with only residential use(s) shall be more than 4 feet in height.. The table below gives the number of portable signs of each type that are allowed on a tract, lot, or parcel of a given size and a given land use (for purposes of this table home occupations do count as non-residential uses):

	Type A	Type B	Type C
0.49 ac. Or less	4 if residential land use; 5 if non-residential land use; 1 if vacant land	0 if residential land use or vacant land; 1 if non-residential land use	0 if residential land use or vacant land; 1 if non-residential land use
0.5 to 0.99 ac.	5 if residential land use; 6 if non-residential land use; 2 if vacant land	1 if residential land use or vacant land; 2 if non-residential land use	0 if residential land use or vacant land; 1 if non-residential land use

	Type A	Type B	Type C
1.0 to 2.99 ac.	6 if residential land use; 8 if non-residential land use; 3 if vacant land	1 if residential land use or vacant land; 3 if non-residential land use	0 if residential land use or vacant land; 2 if non-residential land use
3.0 ac. or more	7 if residential land use; 12 if non-residential land use; 4 if vacant land	2 if residential land use or vacant land; 4 if non-residential land use	0 if residential land use or vacant land; 3 if non-residential land use

5.2.2.D. Projecting signs

(1) Projecting signs shall not extend outward from the building, canopy, or awning to which they are attached by a distance of more than two feet.

(2) The lowest portion of any projecting sign over a public or private sidewalk shall not be lower than eight feet and shall not extend lower than the opening of a door if said sign is located above a door.

(3) Projecting signs shall not extend into an area that is above or below overhead electric lines unless approved by the utility.

(4) Building permits shall be obtained if required by the Building Code. Engineered plans will be required by the Building Official if the sign display area exceeds 10 square feet or if engineered plans are otherwise required by the Building Code or by the Tennessee Board of Architectural and Engineering Examiners.

(5) The maximum sign display area for a projecting sign is 50 square feet. Projecting signs are not allowed in the R1, R2, R3, R4, and RA zoning districts.

5.2.2.E. Roof Signs and Mansard Signs

(1) Building permits are required for roof signs and mansard signs and these permits shall require plans by a Tennessee-licensed professional engineer. The plans must demonstrate that the roof or mansard is capable of

supporting the proposed sign and that other building code requirements are met.

(2) Neither a roof sign nor a mansard sign shall exceed 150 square feet in sign display area.

(3) Roof signs and mansard signs are not allowed in the R1, R2, R3, R4, R5, and RA zoning districts.

(4) The sign display area of any roof and/or mansard sign shall be counted against the maximum allowable sign display area for the façade that is visible in the same elevation as the roof and/or mansard sign.

5.2.2.F. Window Signs

There is no limit on the size or number of window signs as defined by this ordinance. Window signs are subject to general standards of this ordinance. In the case of window sign that requires building or electrical permits by an applicable building or electrical code, those permits shall be obtained. If the code requiring a building or electrical permit also requires an engineered plan or if such plan is required by the Tennessee Board of Architectural and Engineering Examiners, then an engineered plan will be required.

5.2.2.G. Incidental Signs

Incidental signs as defined in this ordinance are allowed and they are not counted toward any other limits imposed by this ordinance in terms of the total number of signs or total amount of sign display area. Incidental signs shall otherwise conform to the general sign standards of this ordinance.

5.2.2.H. Entrance/Exit Signs

One of these signs may be located on each side of each driveway serving a non-residential land use or multi-family residential development. These signs cannot exceed 30 inches in height or 2 square feet in sign display area. If illuminated, they must be internally illuminated and only bright enough to be seen by vehicles in the immediate vicinity. A permit is required unless the property owner installs a two-square-foot Type A portable sign to serve as an entrance/exit sign (such a portable sign would not be counted against the limits on the numbers of portable signs). These signs may be

located within 5 feet of the right-of-way or presumed right-of-way but not within such right-of-way.

5.3. Wall Murals

Wall murals are allowed in non-residential zoning districts but not in any historic zoning overlay district or PUD unless specifically authorized by the City Council. Wall murals are not allowed in the R1, R2, R3, R4, R5, and RA zoning districts. No permit is required to install a wall mural. Any wall mural that is installed must be kept in good repair, including the removal of graffiti and the repair of peeling, damaged, and defaced areas. Wall murals that are not kept in good repair must be removed or repaired.

5.4. Bench Signs, Bus Shelter Signs, and Street Furniture Signs

Bench signs, bus shelter signs, and street furniture signs are prohibited in public right-of-ways and within public parks and greenways except as part of a signage plan or streetscape plan or transit stop plan approved by the City Council, including any lawful revenues to the City of Cleveland and/or its transit operator through the lease of advertising space in such venues or lawful public/private ventures to provide such benches, bus shelters, or other street furniture.

5.5. Kiosks

Kiosks are not to be located within 10 feet of a public right-of-way without review and approval of an engineered site plan by the City's Site Plan Review Committee. Kiosks shall be designed and constructed to meet an 80 mph wind load and other requirements of the applicable building codes. A building permit is required for the construction of a kiosk. Except as modified by this section, kiosks shall conform to the general standards of the sign regulations as these concern location, protection of utilities, maintenance of the kiosk in good repair, and visibility for motorists. The owner of the kiosk shall ensure that the messages posted on it are removed every 30 days to maintain the appearance of the kiosk and to prevent litter. The sign display area within a kiosk shall not exceed 40 square feet. Animation and animated sign copy shall not be allowed within a kiosk, except a single-screen display not exceeding 20 square inches.

5.6. Billboards

Billboards are allowed in the CH, IL, and IH zoning districts as principally permitted uses. Billboards are allowed as principally permitted uses in those portions of the CG and PI zoning districts which are within 200 feet of the Interstate 75 right-of-way, and in that portion of the CG zoning district within 1200 feet of the Interstate 75 right-of-way where there is frontage on a street with four or more lanes if the aforesaid street directly connects with an I-75 interchange. Billboards are allowed as a conditional use in the B zone. Billboards can be allowed in a PUD district if specified as a permitted use. Though not considered an accessory use, they may be co-located with other uses on the same site. The following rules are specific to billboards:

5.6.1. Billboards must be spaced a minimum of five hundred (500) feet apart measured in a straight line distance on the same side of a street and a minimum of four hundred (400) feet apart measured from a radius of each billboard location. In applying this rule "same side of a street" shall mean the primary public street toward which a sign display area or sign face of a billboard is oriented and from which it is intended to be observed by passing motorists, and the intent is that any part of any two billboards along the same side of such street would be at least 500 feet apart. Likewise it is intended that no part of any billboard shall be within a 400 foot radius of any part of another billboard.

5.6.2. No part of any billboard shall be located within three hundred feet (300) feet of any R1, R2, R3, R4, or R5 zoning district. No part of any billboard shall be located within five hundred (500) feet of any historic site listed on the National Register of Historic Places or within five hundred (500) feet of any historic preservation zoning district.

5.6.3. No part of any billboard shall overhang or be within 5 feet of the public right-of-way and no part of any billboard shall overhang or be within any utility easement.

5.6.4. No sign display area on a billboard sign face shall be greater than three hundred (300) square feet. However, where billboards are permitted within 660 feet of I-75 the maximum size of the total sign display area shall be the maximum size for billboards set forth in the State of Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising.

5.6.5. The maximum height shall be thirty-five (35) feet measured from the ground level, except in a location where permitted within 660 feet of I-75 where the height shall be the same as those set forth in the State of Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising. In no case shall the bottom of the sign display area be less than 18 feet from the ground.

5.6.6. Billboards shall be constructed in accordance with the Building Code; however, wood structures are prohibited. Billboards shall not be built, installed or displayed except as free-standing structures. Billboards shall not be built, installed, or displayed as wall signs, awning signs, or roof signs.

5.6.7. A building permit and a sign permit are required to install a billboard. Billboards must be installed by properly licensed contractors and permits will be issued by the Building Official only to such contractors. Permits require a set of plans drawn by a Tennessee licensed professional engineer. Plans will include electrical and lighting details, as well as details on the foundation, the billboard structure, fastening, and windload. The Building Official may require additional information, such as soils testing, as he or she deems necessary.

5.6.8. Billboards are subject to inspection by the Building Official. Billboard owners shall correct, with maintenance and/or repair or removal or replacement of the billboard, problems found during an inspection.

5.6.9. Billboards shall not be constructed so as to have two or more sign display areas stacked vertically with one on top of the other, or located side by side, or otherwise located on the same supporting structure except as provided herein. A "V" shaped billboard is allowed with not more than one (1) sign face on each side of the "V" and where the interior angle of the "V" is not more than 35 degrees. Notwithstanding the description of a "V" shape, it is not intended to preclude the back-to-back location of two sign faces in a billboard as opposed to the "V" design.

Notwithstanding the above paragraph, three-sided billboards shall be permitted when the subject billboard is situated such that the third side is directed toward an on or off ramp accessing Interstate 75 onto a local or state road. No billboards shall be allowed to be located within 1000' of a three sided billboard on the "same side of the street" adjoining Interstate 75. (as amended by Ord. #2017-04, Feb. 2017)

5.6.10. The use of LEDs or other types of lights to produce sign copy on billboards are permitted provided they conform to the requirements of section 5.2.1.K. of the zoning ordinance. LED billboards shall additionally have a spacing distance of 750 linear feet on the traveled roadway between digital billboards on the same road and traveling in the same direction. Furthermore, LED billboards shall not be permitted within five hundred feet (500') of any historic zoning district. Billboards may be internally or externally lighted. The lighting of billboards shall not produce glare or excessive light on adjacent properties or public rights-of-way or interfere with motorists' vision. No flashing or intermittent light source shall be used on a billboard, and neither shall any lighting that creates the appearance or motion. Billboards are allowed to incorporate changeable copy through mechanical means. (as amended by Ord. #2014-10, March 2014, and replaced by Ord. #2015-07, March 2015)

5.6.11. No billboard shall incorporate any sign copy that has been determined by a court of competent jurisdiction to be obscene under the laws of Tennessee. (as replaced by Ord. #2009-39, May 2009, and Ord. #2015-07, March 2015)

5.7. Administration of Sign Regulations

5.7.1 The allowable number, size, and other characteristics for signs of a given type shall be as described in the sign standards of this ordinance.

5.7.2. Exclusions

5.7.2.A. Nothing in these sign regulations is intended to encourage the use of the United States flag or the Tennessee flag as advertising devices or to prohibit the display of the United States flag or the Tennessee flag, however such flags shall not be located so as to impair visibility by motorists or so as to create any hazards or impairments with respect to public utilities.

5.7.2.B. Travel signs as defined herein are not intended to be regulated by this ordinance.

5.7.2.C. Gravestones and historical markers and historic monuments are not intended to be regulated by this ordinance.

5.7.2.D. Horticultural displays which may be configured so as to convey messages or images in living plant material are not intended to be regulated by this ordinance.

5.7.2.E. Specialized seasonal decorative banners that are displayed for a limited time on certain utility poles in a manner pre-approved by Cleveland Utilities and the City Council in a program coordinated by the Cleveland-Bradley County Chamber of Commerce (Ordinance 2005-48) are not intended to be regulated by this ordinance.

5.7.2.F. Signs located in the interior of buildings and which are sized, located, and displayed such that they are not visible from public rights-of-way through ordinary observation are not intended to be regulated by this ordinance.

5.7.2.G. It is not the intention of this ordinance to prohibit the display of any free-standing, traditionally recognized religious symbol on private property by counting such display in any limitation on the square footage and number of signs that may be displayed on such property; however, other restrictions pertaining to the safety of signs and structures would apply. Such restrictions include, but are not necessarily limited to, compliance with applicable sections of the building code, separation from public utilities, utility easements, and rights-of-way, and protection of visibility and access for motorists and pedestrians. However, religious symbols that are incorporated into the sign copy within a sign face would be counted as part of the sign display area.

5.7.2.H. It is not the intention of this ordinance to prohibit the display of any outdoor decoration that does not contain more than very brief, non-commercial and context-related sign copy (e.g. red, white, and blue balloons with "Happy July 4th"; a shamrock with "Happy St. Patrick's Day"; or an earth globe with "Protect the Environment"; or baby shoes with "Choose Life", etc.) on private property by counting such decoration in any limitation on the square footage and number of signs that may be displayed on such property; however, other restrictions pertaining to the safety of signs and structures shall apply. Such restrictions include, but are not necessarily limited to, compliance with applicable sections of the building code, separation from public utilities, utility easements, and rights-of-way, and protection of visibility and access for motorists and pedestrians.

5.7.2.I. It is not the intention of this ordinance to prohibit the use of lights, flashing or otherwise, on private property when these are activated as part of an emergency alarm system, an alerting system on residential property occupied by a hearing impaired person, or a hazard warning system mandated by law or recommended in writing by an authorized

government emergency response official acting in his or her official capacity.

5.7.2.J. It is not the intent of this ordinance to prohibit the use of architectural details in otherwise lawful buildings where these architectural details are representative of the goods or services offered on-premises or of some other theme (e.g. the doghouse motif around the City's animal shelter entrance).

5.7.2.K. Faux painting of architectural details such as columns to create the illusion of depth on an otherwise generally flat surface, and the use of a coordinated scheme of different wall and trim colors are not considered a mural and are not regulated by this ordinance.

5.7.3. Violations of Sign Regulations and Appeals

5.7.3.A. Violations Unlawful

It shall be unlawful to install, erect, display, expand, or maintain a sign in the City of Cleveland, Tennessee except in compliance with this ordinance. Violations of this ordinance are subject to any and all penalties prescribed in the Cleveland Municipal Code and the zoning regulations and as allowed by State law.

5.7.3.B. Non-conforming Signs

Nothing herein is to be interpreted so as to conflict with the pre-existing non-conforming use provisions of the City's zoning regulations. Signs that are not lawful pre-existing non-conforming uses, and which are either not included in the signs allowed by this ordinance or which are otherwise not in conformance with the requirements of this ordinance, are unlawful.

5.7.3.C. Penalties

Any person or entity who violates any provision of these sign regulations, or any person who fails or refuses to comply with any notice to abate a violation or other notice issued by the Building Official or code enforcement officer within the time specified by such notice, shall be subject to a civil penalty of up to $50 per violation. Each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly by a civil penalty of $50 per day per violation.

5.7.3.D. Nuisance

In addition to the foregoing civil penalties, the maintenance of any sign and/or its supporting structure or any violation of the provisions of these sign regulations by any person or entity is declared to be a public nuisance dangerous to the public safety and may be abated as set forth in herein.

5.7.3.E. Notice to Abate

If the Building Official or a code enforcement officer determines that any sign is in violation of any provision of these sign regulations, a Building Official or a code enforcement officer shall, consistent with the nature and seriousness of the violation, notify the offender, or his agent, and the owner, or his agent, or the occupant(s) of the property where the sign is located, by giving notice to abate the violation.

5.7.3.F. Removal Without Notice

Nothing contained herein shall require the City to give notice of a violation prior to removal of any sign located on public property or which otherwise constitutes a safety hazard.

5.7.3.G. Content of Notice

Any written notice given shall describe the conditions or violations constituting a nuisance under these sign regulations, and state that the nuisance may be abated by the City at the expense of the offender, and/or the owner, and/or the occupant of the property after the expiration of not less than fifteen (15) days nor more than thirty (30) days from the date of such notice if such condition is not corrected or in the process of being corrected (with substantial progress being made) by the offender, or the owner, or the occupant, or the person in control of the property by the time specified in the notice.

5.7.3.H. Correction or Abatement by City Of Cleveland

If, after the expiration of the time given to abate the nuisance the condition constituting a nuisance has not been corrected or abated, then such condition may be corrected or the nuisance abated by the City at the expense of the offender and/or the owner and/or the occupant of the premises under the directions of the Building Official or code enforcement officer.

5.7.3.I. Appeals to the Board of Zoning Appeals

Because many types of signs that are governed by these regulations do not require the issuance of permits, appeals may arise for sign regulation enforcement decisions that do not involve the denial or revocation of a permit. Persons properly entitled to seek relief from the decision of the Building Official or code enforcement officer carrying out or enforcing the provisions of these sign regulations that are zoning regulations, may appeal to the Board of Zoning Appeals as provided in Section 6.1.2. of the zoning regulations. Appeals involving the denial or revocation of a permit are addressed in Section 5.7.5 of the sign regulations.

5.7.4. Sign Regulations in Zoning Districts and Special Areas

These sign regulations shall be generally applicable within all Cleveland zoning districts. For Planned Unit Development zoning districts (PUD1, PUD2, and so forth) with an effective ordinance prior to the effective date of this ordinance it is not intended that these regulations should contravene any sign regulation specific to the PUD in terms of the number, type, size, or location of signs allowed, but that these regulations would be applicable as to definitions and permit requirements and procedures. For PUD zoning districts established after the effective date of this ordinance, it is intended that these sign regulations apply except as specifically altered by the ordinance establishing the PUD. From time to time the City may establish special districts for various purposes and these districts may include special regulations concerning signs. The City has established a historic preservation zoning district and any signs, except temporary signs, that are erected within this district are subject to review and approval by the City's Historic Preservation Commission. The City has also established a special sign control district along Paul Huff Parkway generally between Keith Street/ North Lee Highway to South Mouse Creek (Cleveland Municipal Code Title 14 Chapter 5). Where the provisions of the aforementioned special sign control district directly address a matter, those provisions will control; otherwise, signs in that district are governed by this ordinance. Upon review and recommendation by the Cleveland Municipal Planning Commission, the City Council may adopt plans for one or more special streetscape districts which may include one or more design elements within the public right-of-way and on adjoining private property, such as signs, landscaping, lighting, street furniture, etc., where there can be a cooperative public and private effort to create more attractive and

vibrant commercial areas. It is anticipated that these sign regulations could be modified by such a streetscape district plan.

5.7.5. Building Permits, Sign Permits, and Appeals of Permit Denials

5.7.5.1. The following types of signs require a building permit prior to construction: Ground signs (not portable); wall signs, canopy signs and awning signs, unless otherwise exempted under the sign regulations; Projecting signs; Roof signs; Mansard signs; Kiosks; Entrance/Exit signs; and Billboards.

5.7.5.2. Building permits shall be issued in accordance with the provisions of the applicable building code adopted by the City of Cleveland, which is currently the Building Code. For those signs that require a building permit, the applicant shall pay the fees applicable to such building permit.

5.7.5.3. A separate sign permit is required under these sign regulations for those signs for which a building permit is required by the applicable building code(s). If no building permit is required, then a separate sign permit shall not be required. There is no additional fee charged to the applicant for any required sign permit. A sign permit shall be subject to revocation by the Building Official if at any time any conditions required by this ordinance for the issuance of the sign permit or any conditions necessary for the compliance of the sign with the requirements of this ordinance, are determined not to be met.

5.7.5.4. Prior to the issuance of a building permit, the Building Official shall determine that the proposed sign complies with the sign regulations. If the Building Official determines that the sign complies with the sign regulations, then the Building Official shall issue a sign permit.

5.7.5.5. If the Building Official determines that the sign does not qualify for a building permit under the applicable building code(s), the Building Official shall advise the applicant in writing of the reason(s) for the denial for the building permit as well as the applicant's right to appeal the denial of the building permit to the Building Board of Adjustment and Appeals.

5.7.5.6. If the Building Official determines that the sign does not qualify for a sign permit under these sign regulations or that a sign permit must be revoked, the Building Official shall advise the applicant in writing of the reason(s) for the denial or revocation of the sign permit as well

as the applicant's right to appeal the denial or revocation of the sign permit to the Board of Zoning Appeals.

5.7.5.7. In the event a building permit is denied by the Building Official for any sign required to have a building permit under the applicable building code, then the applicant shall be entitled to appeal that denial to the Building Board of Adjustment and Appeals in accordance with the appeals provisions set forth in the Building Code or the applicable building code in effect at the time of the permit denial. Copies of the applicable building code(s) are on file in the City Clerk's office.

5.7.5.8. If an applicant for a building permit is denied a sign permit due to a determination by the Building Official that the sign does not meet the requirements of these sign regulations, then the applicant shall be entitled to appeal that determination by the Building Official to the Board of Zoning Appeals, which shall hear the appeal and determine whether the applicant should be granted a sign permit.

5.7.5.9. In the event the Board of Zoning Appeals upholds the Building Official's determination that the proposed sign does not comply with the provisions of the City's sign regulations, then the applicant may file a petition for a writ of certiorari with a court of competent jurisdiction to review the determination of the Board of Zoning Appeals.

5.7.5.10. In conducting a review of an appeal of the denial of a sign permit by the Building Official, the Board of Zoning Appeals shall follow the procedures set forth in Cleveland Municipal Code, Title 14, Chapter 2, Sections 6.1.2 et seq, as well as Tennessee Code Annotated Title 13, Chapter 7, Part 2.

5.7.5.11. An appeal to the Board of Zoning Appeals from a denial of a sign permit by the Building Official must be filed in writing in accordance with the procedures established in Cleveland Municipal Code, Title 14, Chapter 2, Sections 6.1.2 et seq, as well as Tennessee Code Annotated Title 13, Chapter 7, Part 2.

5.8. Definitions

The definitions in this section are applicable to the interpretation of the sign regulations. Words used within the sign regulations that are not otherwise defined herein should be interpreted according to their ordinary meaning, informed by Webster's Ninth New Collegiate

Dictionary: A Merriam-Webster (Merriam-Webster, Inc., Springfield, MA, publisher, 1987) and the context of their usage. The definitions are as follows:

Advertising device shall mean any physical object or device or light source designed principally as a means of attracting attention through visual means and but which may or may not convey a written message through words, letters, numbers, or other symbols. Examples would include, but are not limited to, balloons, flags, streamers, pennants, devices that spin in the wind, large stationary or moving objects inflated by forced air, strobe lights, etc. This definition does not include such objects, devices, or light sources that are inside buildings and not noticeable from a public right-of-way.

Animation or animated shall mean the movement or the optical illusion of movement of any part of a sign or advertising device, including the movement of any illumination or the flashing or varying of light intensity or the automatic changing of all or any part of the facing of a sign.

Awning shall mean a cloth, plastic, or other nonstructural covering that either is permanently attached to a building or can be raised or retracted to a position. Typically, an awning is for the purpose of providing shade or shelter for a door, window, porch, patio, or entryway.

Balloon sign shall mean any sign painted onto or otherwise attached to or suspended from a balloon, whether such balloon is anchored or affixed to a building or any other portion of the premises or tethered to and floating above any portion of the premises.

Banner sign shall mean a sign made of cloth, canvas, plastic sheeting or any other flexible material, which is not rigidly and permanently attached to a building or the ground through a permanent support structure. A banner sign could be tied or otherwise affixed at one end, in the manner of a flag, or from more than one location on the banner.

Bench sign shall mean a sign incorporated into the seating area or back-support area of an outdoor bench.

Billboard shall mean an off-premise sign with a sign structure that is permanently attached or anchored to the ground or another permanent structure.

Building shall mean a structure having a roof supported by columns or walls. A building may contain one or more units or tenant spaces that could be addressed separately and could have separate utility services but which would share common exterior walls and/or a roof.

Building Code shall mean the building code(s) that have been adopted by the City of Cleveland, Tennessee and which are currently in force at the time of permitting.

Bus shelter sign shall mean a sign displayed on the sides or roof of a bus shelter designated as a bus stop by a public transit provider.

Canopy shall mean a marquee or permanent roof-like structure providing protection against the weather, whether attached to or detached from a building, but excluding any column, pole or other supporting structure to which the canopy may be attached.

Commercial sign copy shall mean sign copy that specifies a particular business, industry, or trade association or which specifies products, goods, commodities, or services that are available for sale on-site or off-site, regardless of whether or not a seller's or agent's name, location, and contact information is provided.

Development shall mean a building or buildings on one or more lots or parcels together with associated common site development or subdivisions attributes such as parking, internal streets or drives, landscaping and site amenities, and drainage and utility features.

Exterior elevation drawing shall mean a drawing showing the visible exterior vertical elements of a building or structure projected directly to a vertical plane.

Entrance/Exit sign shall mean a ground sign located at the driveway(s) of a premises and bearing one or more of the

words "entrance", "enter", "exit", or "only" as the most prominent sign copy.

Externally lighted sign shall mean a sign that is illuminated by an external artificial light source that is focused on the sign backing or sign copy from a location to the bottom, sides, or top of the sign backing.

Façade shall mean the side of a building below the eaves, and that portion of a building's side that would extend above a portion of the roof, as with a parapet wall or gable-end design, and any mansard on the same building side. A façade shall include the total external surface area of a vertical side of a building, canopy, awning or mechanical equipment used to dispense a product outside a building. A facade shall include that area of a building that would be visible in a single exterior elevation drawing, regardless of any curved surfaces or angles that would be apparent in its exterior walls or other predominantly vertical elements when seen from above in a plan view or in a perspective drawing. The term façade is intended to encompass any windows, doors, awning, canopy, mansard, or other building features visible in the same elevation view.

Ground sign shall mean a sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. However, this definition encompasses signs attached to a decorative wing wall, or retaining wall, or similar projection that is not underneath the building roof and that does not enclose an interior space, when such walls or projections are attached to a building. Monument signs and pole signs are types of ground signs.

Incidental sign shall mean an on-premise sign, emblem or decal mounted flush with the facade to which it is attached and not exceeding two (2) square feet in sign area informing the public of goods, facilities or services available on the premises (e.g., a credit card sign, ice machine sign, vending machine sign or a sign indicating hours of business) or an on-premise sign which is affixed to mechanical equipment used to dispense a product and which is less than two (2) square feet in sign area.

Internally lighted sign shall mean a sign wherein the sign backing or sign copy is illuminated by an artificial light source behind it or within an enclosed sign cabinet containing the sign copy, or wherein the sign copy consists of neon tubes or similar material that would cause the sign copy to appear to glow from an internal source.

Kiosk shall mean a message board or message center designed for posting and up-close viewing of messages at eye level by pedestrians who would be within five feet of the posted message.

Land use shall mean three broad categories of land use referred to in this ordinance: residential; non-residential; and vacant. Residential land use refers to developments wherein the land uses consist exclusively of dwelling units (exclusive of bed and breakfast facilities, boarding homes, and various forms of transient lodging regulated by the State of Tennessee) and ancillary amenities such as tennis courts, golf courses, club houses, etc. that are integrated within the residential development. Non-residential land use refers to developments wherein the land uses consist of commercial, industrial, or institutional land uses or one or more of these with or without residential land uses (e.g. upper story loft apartments over ground floor retail). Vacant land consists of lots, parcels, or tracts that are unimproved land or land which may have been cleared, graded, or served with roads or utilities, but on which there are no permanent buildings exclusive of barns, sheds, or similar outbuildings or utility structures such as water tanks or communication towers.

Lighted copy sign shall mean a sign wherein the light source or series of light sources [e.g. light-emitting diode (LED), neon, etc.] are used to form letters or other images in sign copy.

Mansard shall mean the lower portion of a roof with two pitches, including a flat-top roof with a mansard portion.

Mansard sign shall mean any sign attached to the mansard portion of a roof.

Monument sign shall mean ground sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole. Typically, the base of the monument sign is a decorative feature of brick, wood, metal or other material, which is intended to serve as an entry feature or focal point.

Movement shall mean physical movement or revolution up or down, around, or sideways that completes a cycle of change at intervals of less than six (6) seconds, or irregular motion of a physical object such as fluttering or spinning in response to wind or other energy source. Movement shall not include incidental swaying in response to wind loads or other natural conditions that is necessary to support the sign.

Non-commercial sign copy shall mean sign copy that is not commercial sign copy.

Non-residential zoning district shall mean any zoning district where the principally permitted and conditional uses allowed by the zoning ordinance are not primarily residential dwelling units. The zoning districts that are primarily residential are R1, R2, R3, R4, R5, and RA so these would not be non-residential zoning districts.

Off-premise sign shall mean any sign that is not an on-premise sign.

On-premise sign shall mean any sign whose content relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, services or activities conducted on or offered from or on those premises, or the sale, lease or construction of those premises.

Pole sign shall mean a ground sign that is permanently supported in a fixed location from the ground by a structure of poles, uprights, braces, or other structure not as wide as the sign backing. A pole sign is not supported by a building or a wall-like base structure that is at least as wide as the sign backing.

<u>Portable sign</u> shall mean any sign which is placed on or affixed to real property in such a manner that its removal would not cause damage to the property or the sign backing or the sign structure. Portable signs are designed to be readily removed or relocated. A portable sign has no mounting hardware that attaches to the building or other portion of the property in a permanent fashion. Examples of portable signs include, but are not limited to, single or multi-faced sandwich boards, wheel-mounted mobile signs, sidewalk and curb signs, banners, balloon signs, yard signs on stakes or rigid wire. For purposes of this ordinance, all portable signs which have four square feet or less of sign backing and which are not designed to incorporate lighting or other electronics shall be classified as Type A portable signs; portable signs which have more than four square feet of sign backing and which are not designed to incorporate lighting or other electronics shall be classified as Type B portable signs; and portable signs which are designed to incorporate lighting or other electronics shall be classified as Type C portable signs.

<u>Premise or premises</u> shall mean all contiguous land in the same ownership and/or control which is not divided by any public highway, street or alley or right-of-way. As part of a dominant parcel of property, premises shall also include a permanent easement to the dominant parcel which (1) connects the dominant parcel to a public right-of-way, (2) is the sole means of ingress and egress to and from a public right-of-way for vehicular traffic to the dominant parcel, and (3) is regularly used for ingress and egress to the dominant parcel by vehicular traffic.

<u>Primary street frontage</u> shall mean the public street from which a residential development has its primary vehicular access by design as evidenced by the width of the entrance or other design features (for a residential subdivision this would be a street to which its internal street network is connected). For developments containing non-residential uses, the primary street frontage will be that street front toward which the front wall of the building(s) is oriented as evidenced by the placement of entryways and other features of the building façade. In most but not all cases for developments containing non-residential uses, the primary street frontage will also be on the street to which the

development is addressed and the street from which the development has its primary vehicular access.

Projecting sign shall mean an on-premise sign attached to a building, canopy, awning or marquee.

Roof sign shall mean a sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof in any way.

Sign shall mean a lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right-of-way, and shall include advertising devices as defined herein.

Sign area measurement shall mean the calculated square footage of sign display area for a given sign where such calculation is done according to the method prescribed by this ordinance.

Sign backing shall mean the rigid (wall, sign board, back-lit sign surface in a sign cabinet, etc.) or non-rigid (as in the case of a banner) material or surface on which the sign copy is displayed. The sign backing is considered to be part of the sign structure and it would be inclusive of the sign display area.

Sign copy shall mean the letters, numbers, symbols, pictures, drawings, logo, or other graphic information within signs.

Sign display area shall mean the area of the sign backing on which sign copy is displayed or could be displayed for a given sign.

Sign envelope shall mean the location within a development or on a lot, parcel, tract, or building(s), or portion of a building(s) over which an allowed number of signs and/or an allowed square foot area of signs of a given type can be allocated. The sign envelope is understood to be inclusive of any height restrictions, setback requirements, and other stated requirements of this ordinance that would affect the location of a given sign of a given type.

Sign face shall mean a sign display area visible in an external elevation drawing such that the sign copy would be in a plane perpendicular to plane of the viewer's line of sight, i.e. the sign display area is viewed straight-on and not at an angle such that copy on more than one side of the sign could be visible if not legible.

Sign structure shall mean the sign backing together with all framework, anchors, cords, chains, wires, poles, bases, foundations, brackets, lighting, electrical connections and apparatus, cabinets, carriage assembly (wheels, axles, etc.), and all other hardware necessary to move, attach, erect, secure, and otherwise display the sign as designed.

Signable square footage shall mean the maximum allowable value for the sign display area measurements of all signs of a given type allowed within a sign envelope.

Sign type shall mean any of the various categories and subcategories of signs that are defined in this ordinance.

Streetscape shall mean the visual aspects of what is contained in the public right-of-way and the immediately surrounding land to a depth of 20 feet from the right-of-way, and including elements such as landscaping, utilities, sidewalks, street furniture, and other functional and ornamental design elements within or immediately adjacent to the streetscape.

Street furniture sign shall mean any sign incorporated into or posted upon any street furnishing or fixture in any public right-of-way for motorized and non-motorized travel including streets, sidewalks, greenways, and areas within public parks. Examples of street furniture signs in public right-of-ways and public parks would include, but are not limited to, signs displayed in such areas on benches, shelters, trash receptacles, and fences.

Travel sign shall mean a sign placed within a public right-of-way or authorized to be placed within or within 5 feet of a public right by an official government agency charged with maintaining the aforesaid public right -of-way. Travel signs include signs described in the Uniform Manual of Traffic Control Devices and other signs primarily for

traffic management and way-finding that influence the speed, direction, and travel path choice of motorists.

Wall mural shall mean a scene, figure or decorative design painted on a wall of a building so as to enhance the building architecture, and which does not include sign copy, and which is distinctly separated from any sign backing or sign copy by a monochromatic border at least 12 inches wide.

Wall sign shall mean a sign that is attached, painted, or displayed on a façade, including signs oriented so as to be viewed and interpreted with the façade. This definition would also include projecting signs and signs located on an awning, canopy, or mansard, when these contain sign structure or sign copy visible on the façade.

Window sign shall mean a sign located inside a building but mounted and oriented so as to so as to be visible from the exterior of the building from a public right-of-way. (amended by Ord. of #7/8/85, Ord. #4, Jan. 1999, Ord. #6, April 2000, replaced by Ord. #2007-35, Sept. 2007, and amended by Ord. #2008-56, Sept. 2008)

6.0 ADMINISTRATIVE PROCEDURES.

6.0.1 Administration and enforcement. The provisions of this ordinance shall be administered and enforced by the building inspector(s). These officials shall have the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

6.0.2 Building permit. No land or structure shall be changed in use and no structure shall be erected, moved or altered until the chief building inspector has given written approval of same, and has issued a building permit certifying that the plans and intended use of land, buildings and structure are in conformity with this ordinance, and other valid ordinances of the City of Cleveland. Building permits shall be void after three (3) months from date of issue unless substantial progress has been made on the project by that time.

6.0.3 Certificate of occupancy. No land or structure hereafter erected, moved, or altered in its use shall be used until the chief building inspector shall have issued a certificate of occupancy stating that such land or structure is found to be in conformity with the provisions of all applicable ordinances. It is expressly provided that the moving or relocation of any trailer, prefabricated structure, or other structure to

any premises shall require a building permit and certificate of occupancy.

6.0.4 Enforcement by city clerk. The provisions of this ordinance shall also be administered and enforced by the city clerk insofar as the same concerns the issuance of privilege licenses for businesses or occupations required to be licensed by the City of Cleveland, and no such license shall be issued by the clerk for the privilege of carrying on a business or occupation in violation of the provisions of this ordinance.

6.0.5 Penalties. Any person violating the provisions of this ordinance shall, upon conviction, be fined not less than two (2) nor more than fifty (50) dollars for each offense and court costs. Each day such violation continues shall constitute a separate offense. It is further provided that the foregoing penal provisions are not intended to be the exclusive means of enforcing this ordinance, and violation of the provisions hereof is expressly declared to be a nuisance, and, in addition to the fines hereinabove provided, the nuisance shall be abatable in law or in equity as in the case of other nuisances.

6.0.6 Scheduling and postponement of zoning cases. For a rezoning on a planning commission agenda, the applicant may request a postponement until the next planning commission meeting or a future planning commission meeting on a specified date not later than the second month following the meeting date from which the item is to be postponed. The applicant may request and the planning commission may grant two (2) such postponements for a given requests during a one year period beginning with the date that the item is first on the planning commission agenda. Failure of the applicant to appear at the planning commission meeting without the approval of the planning commission chairman shall constitute a request for postponement by the applicant. In the case of a rezoning request recommended for denial by the planning commission, the same request shall not be heard again by the planning commission for a period of one year unless recommended by the planning director based upon a substantial change in the request. (as added by Ord. #18, Oct. 2001, and replaced by Ord. #2011-07, June 2011)

6.1 BOARD AND AGENCIES.

6.1.1 Planning commission.

Title 14, chapter 1 of the City Code of Cleveland, Tennessee, creates the Planning Commission, and establishes its membership; organization, rules and staff; and powers and duties.

6.1.2 Board of zoning appeals.

A. Establishment. A Board of Zoning Appeals, the "new board" for purposes of this paragraph, is hereby established in accordance with Section 13-7-205 of the Tennessee Code Annotated as amended. The membership, powers, and procedures of the new board shall be as described in this ordinance. The Board of Zoning Appeals in existence prior to this ordinance, the "old board" for purposes of this paragraph, shall be dissolved upon the initial appointment of the new board. The requirements of this ordinance notwithstanding, any appeals, variance requests, or other business or proceedings that may be before the old board at the time of its dissolution shall be concluded by the new board in accordance with the requirements of the old board.

B. Membership. The Board of Zoning Appeals shall consist of five (5) members appointed subsequent to the adoption of this ordinance in the manner prescribed herein. Members are to be appointed by the City Council. Initial appointments are to be made for staggered terms as follows: two seats for a term of one year; two seats for a term of two years; and one seat for a term of three years. Subsequent appointments to each seat are to be for terms of four years. If a member leaves the board before his or her term is expired, he or she is to be replaced for the remainder of the term in the manner prescribed herein. Members of the board may be appointed from among the members of the Cleveland Municipal Planning Commission. Relevant abilities or expertise, commitment to public service, and community diversity are factors to be considered in making appointments, but none of these is to be a sole controlling factor for any particular appointment. A member of the board may be removed from the board at any time by a majority vote of the City Council when it is demonstrated that such board member has a pattern of repeated absences from board meetings, or when such board member exhibits disregard for controlling laws and ordinances or the purpose and intent of the zoning ordinance, or when such board member fails to declare a conflict of interest in a given case and votes on the case.

C. (1) Administrative Review. To hear and decide appeals where it is alleged by the appellant that there is error

in any order, requirement, permit, decision, or refusal made by the Building Inspector(s) or other administrative official(s) in carrying out or enforcing of any provision of the zoning regulations as found in Title 14 Chapter 2 of the City of Cleveland, Tennessee Code of Ordinances, as amended.

(2) Special Exceptions (Conditional Uses). To hear and decide requests for special exceptions in accordance with the provisions of the paragraph. A special exception request is a request for approval of a Conditional Use as defined in Section 1.6 of the zoning regulations. The process for review and approval or denial of conditional use requests shall be as described in Section 1.7 of the zoning regulations.

(3) Zoning District Boundary Disputes. The Board of Zoning Appeals is authorized to rule in cases where the Planning Director's determination of a zoning district boundary is disputed. Boundary determinations shall be made in accordance with the principles set forth in Section 1.4.1. of the zoning ordinance.

(4) Zoning Variance Requests. The Board of Zoning Appeals is authorized to grant variances from the strict application of zoning regulations that are dimensional, proportional, or quantitative in nature (e.g. distance, area, height, bulk, quantity, proportion, and the like) where the standards required by Tennessee Code Annotated, § 13-7-207(3) are met. By way of summary, these standards require: first, that application of the development standard present a substantial problem because of the narrowness, shallowness, shape, topography, or other exceptional condition of the property; second, that application of the development standard present exceptional practical difficulties or undue hardship on the property owner; and third, that the variance requested would not substantially harm the public good or the purpose and intent of the zoning ordinance. The applicant for a variance shall provide sufficient information for a staff review and review by the board, including but not limited to, a survey

showing existing or proposed property lines, building footprints, and impervious surfaces.

(5) Right of Entry Upon Land. For purposes of carrying out the requirements of this ordinance, the Board and Zoning Appeals, its members and City of Cleveland, Tennessee employees or agents acting in support of the board shall have the right to enter upon any land within the City of Cleveland for the purposes of making examinations or surveys or for the purpose of posting or removing public notices if such are required by this ordinance.

(6) Right to Request Assistance. In the discharge of its responsibilities under this ordinance, the Board of Zoning Appeals shall have the right to request through the City Manager assistance from any City department.

(7) Public Notification--- Signage. A sign for the purpose of public notification shall be placed on the site affected by a conditional use or variance request scheduled to be heard by the Board of Zoning Appeals (BZA) at least 7 days before the hearing. (as added by Ord. #2011-16, Sept. 2011)

(8) Resubmission and Reconsideration. In the case of a conditional use or variance request that has been denied, no such request shall be resubmitted and considered again by the Board within six months of the Board's decision to deny the request, unless:

(a) Within 30 days after a denial, the Board votes to reconsider the matter, and the Board finds that there has been a substantial and material change in the request. Reconsideration under these circumstances requires that a Motion to reconsider be made by a member previously voting with the majority to deny the request. Before reconsidering any previous denial, the motion to reconsider must be approved by a majority of the Board members present and voting. If the Board votes to reconsider the matter, the Board shall also state upon the record the basis of the Board's finding that

there has been a substantial and material change in the request.

(b) Resubmission and reconsideration occurs pursuant to court order. (as added by Ord. #2011-16, Sept. 2011)

D. Procedures. The following are rules and procedures for the Board of Zoning Appeals. The board may adopt such other rules and procedures for the conduct of business as the board deems appropriate provided that these are not in conflict with the rules and procedures described herein.

(1) Initial meeting. Within thirty (30) days of the initial appointment of the board, the board shall hold an initial meeting. At the initial meeting the board will elect officers as required by this ordinance; it will address any business that was before the former Board of Zoning Appeals; and it will address any new business that is to come before the board.

(2) Election of Officers. The board shall elect from among its own members a chairperson, and a vice-chairperson. Secretarial services shall be provided by the City of Cleveland, Tennessee in a manner to be prescribed by the City Manager.

(3) Regular Meetings. Regular meetings shall be held at a time and place chosen by the Board of Zoning Appeals. Regular meetings shall be held at least monthly following the initial meeting unless there is no business to be conducted apart from the approval of minutes in which case the meeting may be postponed until the next regular meeting or called meeting. Unless otherwise determined by the board, regular meetings shall be at noon on the second Tuesday of each month in the City Council Chambers. The chairperson or vice-chairperson may reschedule regular meetings as may be necessary from time to time.

(4) Called meetings. For meetings that meet the requirements of subsection 6.1.2.D(6) in which enough members cannot attend to form a quorum.

The chairperson or vice-chairperson or any two members may schedule called meetings of the Board of Zoning Appeals as deemed necessary provided that notice is given to each board member at least forty-eight (48) hours in advance. For purposes of this ordinance, notice to board members include verbal notification or leaving written, audio or electronic messages at locations where the board member can usually be reached.

(5) Called meetings for any other reason. The chairperson or vice-chairperson or any two members may schedule called meetings of the Board of Zoning Appeals as deemed necessary provided that the advertisement requirements of subsection 6.1.2.D(6) below are met.

(6) Notice of meetings. Notice of regular meetings shall be by publication of the meeting agenda in a newspaper of general circulation. Meetings wherein an administrative review, special exception, or variance is to be considered are to be advertised at least five days in advance of the meeting with a description of what is to be considered.

(7) Quorum and Voting. The presence of three members of the Board of Zoning Appeals shall constitute a quorum. If the chairperson and vice-chairperson are absent from the meeting in which there is a quorum, the members present shall elect from among themselves a chairperson of the meeting. If only three members are present and one cannot vote due to a conflict of interest on a particular item, the remaining two members shall constitute a quorum for the purpose of that item. In the event of a tie vote on any motion the motion shall fail. A motion shall have passed upon the affirmative vote of a majority of the quorum of board members present and voting.

(8) Open Meetings. All meetings of the board shall be open to the public.

(9) Conduct of Meetings. Unless otherwise specified by this ordinance or the specific determination of the

board that does not conflict with this ordinance, conduct of meetings shall be generally in accordance with Roberts Rules of Order.

(10) Application. Appeals for administrative review, special exceptions, and variances shall be by written application from the property owner, or property buyer with agreement of the owner, or the City of Cleveland. The form and specific content of the application shall be as determined by the board as shall submittal deadlines, application sufficiency standards, and review procedures. Applications shall at a minimum contain all information necessary to make determinations required by this ordinance. No applicant shall be guaranteed a review by staff in less than ten working days. Falsification, omission, or misrepresentation of a material fact shall be grounds for revocation of any appeal for administrative review, special exception or variance granted by the board.

(11) Oath of Office. Before beginning a term of service on the Board of Zoning Appeals, a member shall take the following oath of office:
"I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of Tennessee, and that I will perform with fidelity the duties of the office to which I have been appointed and which I am about to assume."

E. Applicants for conditional uses, variances, or other hearings before the Board of Zoning Appeals shall submit a fee of one hundred fifty ($150.00) dollars for each item to be heard. (as amended by Ord. #2003-29, Nov. 2003, Ord. #2004-22, June 2004, Ord. #2005-20, June 2005, Ord. #2005-37. Sept. 2005)

6.1.3 Code enforcement board. [Reserved.]

6.2 SITE PLAN REVIEW PROCESS

In order to promote careful and systematic review of future development within the community, to ensure compliance with all applicable zoning requirements, 40 CFR 122.26 pursuant to the National Pollutant Discharge Elimination System permit issued to the City of Cleveland, other engineering and development related ordinances and standards, and to promote the general health, safety, and welfare of the community, the following site plan review process shall apply. It is the general purpose and intent of this section to require site plan review and approval for all new developments and redevelopments of commercial, industrial, public and institutional and multi-family residential uses with a building area of five thousand (5000) square feet or larger for all buildings contained within the site or for any use containing a drive-through service window or lane, or for land disturbance activities as defined by Title 18 Chapter 3 Section 18-304 (1) of the Cleveland Municipal Code, and to provide for the lessening of traffic congestion and the securing of adequate light, air, and aesthetic conditions for residents of Cleveland. Unless otherwise stated herein the term "site plan" shall mean a final site plan, which requires approval prior to the issuance of a building permit.

6.2.1 Administrative Procedures. Site plans reviewed pursuant to this Subsection 6.2 shall be reviewed by a Site Plan Review Committee comprised of the Director of Community Development, the Building Official, the Traffic Engineer, the City Engineer, the Stormwater Engineer, the Urban Forester, and representatives of emergency services (Fire and Police) and the Public Works Director or his designee. The Site Plan Review Committee may seek input from other City departments and utility providers and governmental agencies, as it deems necessary. The Plan Review Committee shall review each month the site plans submitted by the last working day of the previous month. Six sets of the (one each for the city engineer, stormwater engineer, traffic engineer, building department/community development, fire department, urban forester) site plan are to be submitted for review to the Department of Community Development with a letter requesting site plan review. The Site Plan Review Committee will have thirty (30) days from the date of submittal to review each site plan submitted and provide comments. The Site Plan Review Committee will communicate the results of its review to the applicant in writing. The Director of Community Development shall be responsible for the day-to-day

administration of the Site Plan Review Committees work. The site plan review will check for completeness according to the required site plan content in 6.2.3 below, for conformity with MS4 Phase I1 Stormwater requirements in conjunction with Title 18, Chapter 3, Sections 18-301 through 18-312, and for applicable planning, engineering, and safety standards, and for whether the site plan has fulfilled the purpose and intent of the site plan review process. Any site plan revisions required as a result of the site plan review must be addressed to the satisfaction of the Site Plan Review Committee prior to the issuance of a building permit. All revisions have a one (1) week (7- calendar days) review period from date of revision submission. In situations requiring site plan approval, developers are encouraged to submit preliminary site plans for comments by the Site Plan Review Committee. The Site Plan Review Committee will review the preliminary site plan within two weeks (14-calendar days) from the date of submittal and provide comments to the applicant.

6.2.2 Exemptions. Site plans for small additions to existing buildings may be exempted from review by the Site Plan Review Committee, by the Director of Community Development and the Public Works Director (or their designees) , when they determine that the purpose and intent of these regulations would not be adversely affected. Considerations for making such a determination would include, but not necessarily be limited to the following: whether the total square footage increase would be less than ten percent (10%) of the existing floor area, whether any driveway redesign is contemplated, whether a significant increase in traffic generation is expected, whether any utilities easements are impacted, the use of the proposed expansion area, and whether the proposed site improvements would otherwise generally conform to the zoning ordinance and other applicable city ordinances.

6.2.3 Site Plan Requirements. Site plans (and preliminary site plans if submitted for review) shall be prepared by a licensed architect, engineer, or surveyor, but within the limits of professional licensure under Tennessee law. Preliminary site plans should be complete to a schematic design phase. Site plan minimum requirements include all existing and proposed conditions, which shall include but shall not be limited to: a tax map and parcel identification, a location map showing streets and street names, boundary survey data including bearings and distances for site boundaries, site attributes, the location of site features (existing structures, existing utilities, existing easements), the location of features adjacent to the site (building line of existing buildings on adjacent property if within required setback, existing streets, existing sidewalks, existing utilities, nearest, existing fire

hydrant, existing rights-of-way, existing easements), any covenants affecting the site, a north arrow, site acreage, pervious and impervious area acreage (areas both pre and post development conditions), a graphic scale not less than 1" = 100' (one inch equals one hundred feet), topography of existing and finished grades at two-foot intervals based upon survey data, flood data (FEMA map and panel number and location of areas subject to flooding identified as the 100-year floodway, if applicable, and the 100-year floodplain), vehicular and pedestrian access and circulation (includes ingress, egress, frontage roads, parallel access streets, joint driveways, modifications or improvements to adjacent streets and traffic control devices), location of all proposed structure on site including signs, parking spaces and structures (include signing and marking detail for handicapped-accessible parking spaces), stormwater management plan, landscaping and open space plan satisfying the MS4 Phase II Stormwater Ordinance, proposed screening (walls, fences, berms, or other opaque barriers), and solid waste collection facilities including required screening. Based upon its professional judgment, the Site Plan Review Committee may require additional appropriate data such as traffic impact studies, environmental studies, parking studies, and the like. Such additional data shall only be required were the proposed development can reasonably be anticipated to have significant or adverse impacts in terms of roadway capacity, roadway safety, flood hazard, public infrastructure, or an environmental resource regulated by the Tennessee Department of Environment and Conservation. Conformity with site design standards in Section 3.0 of the zoning ordinance is required. (as amended by Ord. #2005-21, June 2005)

6.2.4 Appeals. In the event that an applicant is aggrieved by the decision of the site plan review committee as it pertains to a particular site plan, the applicant may appeal the decision of the site plan review committee to the planning commission. The final appeal is to the city council. (as replaced by Ord. #7, Aug. 2000)

6.3 Council actions.

6.3.1 Adoption of the zoning ordinance.

This ordinance shall be in full force and effect from and after its adoption and effective date. All zoning ordinances heretofore adopted for the City of Cleveland, Tennessee, are hereby repealed upon adoption of this ordinance.

6.3.2 Amendment of the zoning ordinance.

A. Procedure. As provided in Tennessee Code Annotated, § 13-7-203, such regulations, restrictions, and boundaries of districts as provided for in this ordinance and/or as shown on the official zoning map may be amended, supplemented, changed, modified, or repealed by ordinance by the Cleveland City Council. All changes and amendments shall be effective only after official notice and a public hearing held by the council. At least fifteen (15) days notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality.

B. APPROVAL BY THE PLANNING COMMISSION. As provided in Tennessee Code Annotated, §§ 13-7-203 and 13-7-204, no amendment shall become effective unless it is first submitted to and approved by the Cleveland Planning Commission; if disapproved by the planning commission, the amendment must receive a majority vote of the entire membership of the Cleveland City Council.

6.4 APPEALS.

6.4.1. Denial of permit of license. Any person or persons aggrieved by a decision of the chief building inspector denying a permit or certificate of occupancy or persons aggrieved by the act of the city clerk in denying a privilege license because of the violation of the provisions of this ordinance may within thirty (30) days after decision appeal said decision to the board of zoning appeals.

6.4.2 Granting of permit or license. Any person or persons aggrieved by a decision of the chief building inspector in granting a permit or certificate of occupancy may within thirty (30) days after visible commencement of construction, in the case of a building permit, and within thirty (30) days from visible occupation in the case of a certificate of occupancy, appeal said decision to the board of zoning appeals. Any person or persons aggrieved by the act of the city clerk in granting a privilege license in violation of the terms of this ordinance may within thirty (30) days after the visible commencement of exercising of the licensed privilege, appeal said decision to the board of zoning appeals.

6.4.3 Procedures. A written application for appeal must be provided by the applicant describing the specific reasons for appealing the granting or

denial of a building permit, certificate of occupancy, or privilege license denied under this ordinance. A written appeal must be submitted in advance of a regularly scheduled or called meeting within a reasonable time established by the board of zoning appeals. Following receipt of a written appeal by the planning director, the board of zoning appeals shall schedule consideration of his appeal at a duly advertised public hearing. A written record of the decision of the board of zoning appeals shall be kept which includes the written application and any supporting documents, including maps, and the reasons for granting the appeal.

6.5 FEES.

Fees for requesting approvals, appeals (administrative review, special exceptions, variances) and applications for amendments (rezonings) to this ordinance shall be established by the planning commission and posted in the city planning department. Fees shall be payable upon application to the planning commission or to the board of zoning appeals.

6.6 Airport zoning.

6.6.1 Hardwick Field--- all airport zoning regulations and maps adopted prior to July 1, 2009 that are applicable to the environs of Hardwick Field shall remain in full force and effect until such time as the City Council of the City of Cleveland, Tennessee determines that Hardwick Field shall have ceased to be an airport requiring such airport zoning protection under laws and regulations applicable to airports in the State of Tennessee.

6.6.2 Definitions. As used in this ordinance, unless the context otherwise requires:

(1) AIRPORT --- the Cleveland Municipal Airport located, or to be located, in the vicinity of Dry Valley Road and Michigan Avenue Road in Bradley County, Tennessee.

(2) AIRPORT ELEVATION - 860 feet above mean sea level.

(3) APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in below in this ordinance (see Section 6.6.4). In plan the

perimeter of the approach surface coincides with the perimeter of the approach zone.

(4) APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are as set forth below in this ordinance (see Section 6.6.3).

(5) BOARD OF ZONING APPEALS - The City of Cleveland Board of Zoning Appeals established in Title 14 Chapter 2 Zoning Regulations of the Municipal Code of the City of Cleveland, Tennessee in accordance with the laws of the State of Tennessee.

(6) CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(7) HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

(8) HEIGHT - For the purpose of determining the height limits in all zones set forth in the Ordinance and shown on the airport zoning map adopted by the Ordinance; the datum shall be mean sea level elevation unless otherwise specified.

(9) HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

(10) LARGER THAN UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

(11) NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

(12) NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or

area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

(13) OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this ordinance (see Section 6.6.4).

(14) PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

(15) PRECISION INSTRUMENT RUNWAY - A runway, having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

(16) PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of the runway; for military runways or when the surface has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in this ordinance under 6.6.3 Airport Zones and Airport Zoning Map. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(17) RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.

(18) STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestack, earth formation, and overhead transmission lines.

(19) TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet

horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

(20) TREE - Any object of natural growth.

(21) UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

(22) VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

6.6.3 Airport Zones and Airport Zoning Map

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Cleveland Municipal Airport. Such zones are shown on Cleveland Municipal Airport Zoning Map consisting of one sheet, prepared by the Airport Authority, dated September 2006, which is attached this Ordinance and made a part hereof (see Appendix A to this ordinance which also contains an illustrative map highlighting the street network within the airport zoning area). An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The regulations prescribed herein shall apply only to those portions of zones which are located inside of the corporate limits of the City of Cleveland or which become located inside the corporate limits of the City of Cleveland due to annexation. The various zones are hereby established and defined as follows:

(1) Approach Zone - Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of

10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(2) Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

(3) Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(4) Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

6.6.4 Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any airport approach surface zone, transitional surface zone, or horizontal surface zone to a height in excess of the applicable height herein established for such zone. Additionally, no structure shall be erected or altered within the conical surface zone to a height in excess of the height limit herein established for zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) Approach Zone - Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone. Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(2) Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 860 feet above mean sea level. In addition to the foregoing, there are established height limits

sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

(3) Horizontal Zone - Established at a height of 150 feet above the airport elevation or at a height of 1010 feet above mean sea level.

(4) Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(5) Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

6.6.5 Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

6.6.6 Nonconforming Uses

(1) Regulations Not Retroactive--- the regulations prescribed in this Ordinance are not retroactive and the ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming

to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use in place prior to the ordinance. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure; the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

(2) Marking and Lighting - Notwithstanding the preceding provision of the Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Cleveland Municipal Airport Authority.

6.6.7 Permits (1) Future Uses - In addition to any prerequisites for obtaining any permit already established by the City of Cleveland and/or Bradley County, all permits issued by the City of Cleveland and Bradley County will additionally be reviewed for conformity with the requirements of this Ordinance. Furthermore, nothing in this ordinance shall require a permit not otherwise required for any tree or structure meeting the provisions of a, b, and c hereunder.

a. In the area lying within the limits of the horizontal zone and conical zone, any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limit prescribed for such zones.

b. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure

would extend above the height limit prescribed for such approach zones.

c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by the Ordinance except as set forth in this ordinance (see Section 6.6.4). Additionally, no permit for any use inconsistent with the provisions of this resolution shall be granted unless a variance has been approved in accordance with the provisions of this ordinance [see Section 6.6.7(4)].

(2) Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for a permit otherwise complying with all of the requirements of the permitting jurisdiction, the City of Cleveland or Bradley County as the case may be, will be granted.

(3) Nonconforming Uses Abandoned or Destroyed - Whenever the City of Cleveland Building Official determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure to be reconstructed or replaced to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(4) Variances- Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or

use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of the Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.

(5) Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to permit the Cleveland Municipal Airport Authority, at its own expense, to install, operate, and maintain the necessary markings and lights.

6.6.8 Violations Unlawful, Enforcement, and Penalties

Violations of this ordinance are declared to be unlawful. It shall be the duty of the City of Cleveland Community Development Department to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City of Cleveland Community Development Department upon a form published for that purpose. Applications required by this ordinance to be submitted to the City of Cleveland Community Development Department shall be promptly considered and granted or denied.

Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the City of Cleveland Community Development Department. Each violation of this ordinance or of any regulation, order, or ruling promulgated hereunder shall be punishable in accordance with the guidelines established elsewhere in the City of Cleveland, Tennessee zoning regulations.

6.6.9 Board of Zoning Appeals and Judicial Review

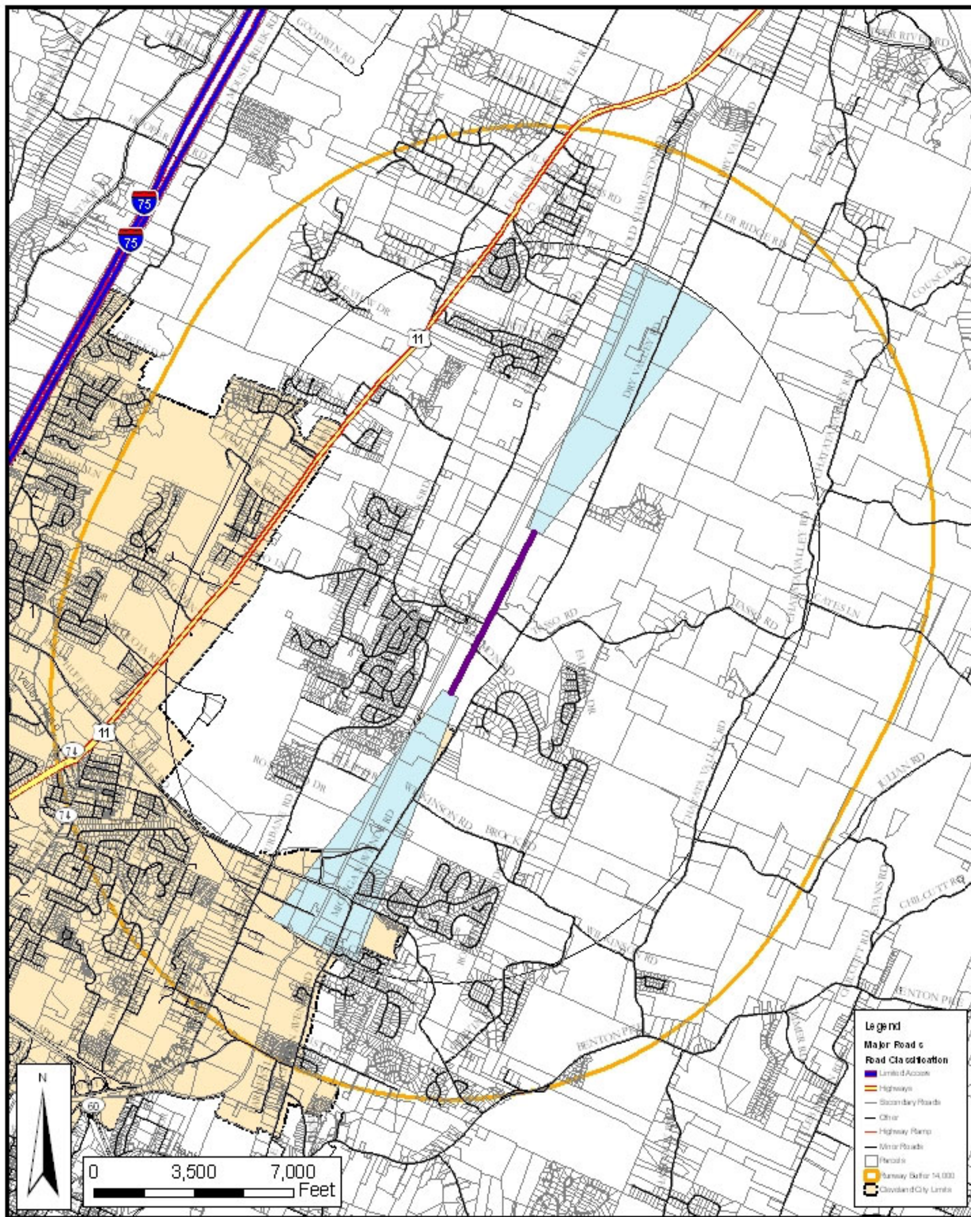
In addition to the powers and duties elsewhere conferred upon the Board of Zoning Appeals by the City of Cleveland, Tennessee's zoning ordinance, the Board of Zoning Appeals shall also have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the Community Development Department staff, including but not limited to the Building Official, or their agents in the enforcement of this ordinance; and

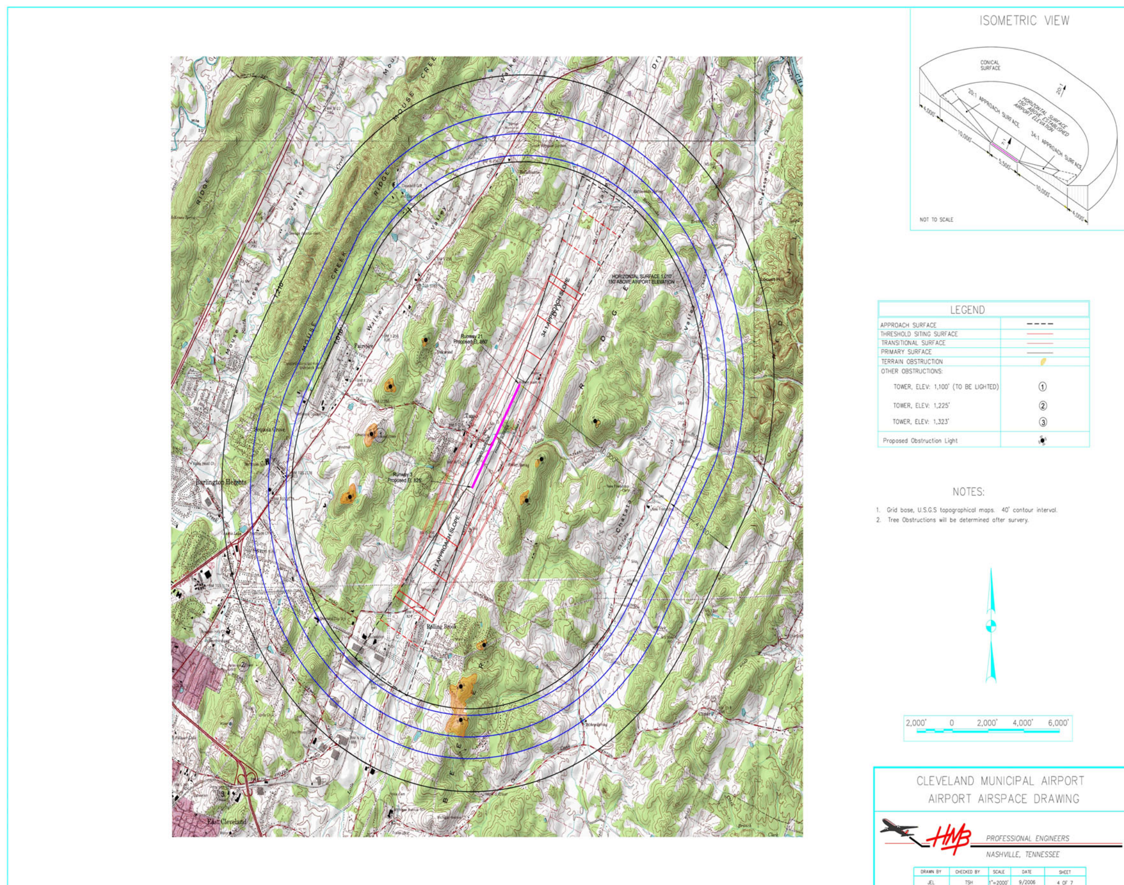
(2) To hear and decide special exceptions to the terms of this ordinance upon which such Board of Zoning Appeals under such regulations may be required to pass; and

(3) To hear and decide specific variances.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Zoning Appeals, may appeal to either the Circuit Court or Chancery Court as provided in Tennessee Code Annotated, Title 27 Chapter 9.



Cleveland Bradley County Tennessee
Dry Valley Road Airport Site May 20,2008



(Ord. #4-26-60, July 1998, as replaced by Ord. #2008-29, June 2008, and Ord. #2010-09, April 2010)