

## ZONING ORDINANCE OF THE CITY OF CLEVELAND, GEORGIA

### PREAMBLE

AN ORDINANCE REGULATING WITHIN THE CITY OF CLEVELAND, THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE SIZES OF YARDS, COURTS, AND OTHER OPEN SPACES; THE DENSITY AND DISTRIBUTION OF POPULATION; THE USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, RESIDENCE, RECREATION, AGRICULTURE, FORESTRY, CONSERVATION, SANITATION, PROTECTION AGAINST FLOODS, PUBLIC ACTIVITIES, AND OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; DEFINING THE POWERS AND DUTIES OF THE PLANNING COMMISSION AND BOARD OF APPEALS AND CITY COUNCIL; PROVIDING PENALTIES FOR VIOLATIONS; REPEALING CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

### ARTICLE I. ENACTMENT, SHORT TITLE, JURISDICTION, PURPOSE

#### Sec. 1.1. Enactment clause.

The Mayor and Council of the City of Cleveland, under the authority of the General Planning and Zoning Enabling Act Article IX, Section 2, paragraph 4 of the 1983 Constitution of the State of Georgia and amendments thereto, hereby ordains and enacts into law the following articles and sections:

#### Sec. 1.2. Short title.

These regulations shall be known and may be cited as "The Zoning Ordinance for the City of Cleveland, Georgia."

#### Sec. 1.3. Jurisdiction.

These regulations shall govern the use of all land and the developments thereof within the corporate limits of the City of Cleveland.

#### Sec. 1.4. Purpose and Relationship to the Comprehensive Plan.

The City of Cleveland Zoning Ordinance is designed to implement the provisions of the Comprehensive Plan for the development and use of land. The purpose of these regulations shall be to:

1. Promote the health, safety, morals, order, prosperity, and general welfare of the City;
2. Promote desirable living conditions and the sustained stability of neighborhoods;
3. Promote the proper location, height, bulk, number of stories, and size of buildings and other structures;
4. Promote the proper sizes of yards, courts, and other open spaces;
5. Protect property against blight and depreciation;
6. Lessen congestion on streets;
7. Secure safety from fire, panic, and other dangers;
8. Provide adequate light and air and preventing the overcrowding of land;
9. Avoid undue concentration of population;
10. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other

- public requirements;
11. Promote a balance of residential, commercial, and industrial uses throughout the community;
  12. Discourage urban sprawl;
  13. Encourage the use of ecodevelopment, green building, sustainable development, and LEED (Leadership in Energy and Environmental Design) practices, as defined herein; and
  14. Promote the most appropriate use of land, buildings, and structures throughout the City in accordance with the Comprehensive Plan.

## **ARTICLE II. INTERPRETATIONS AND DEFINITIONS**

### **Sec. 2.1. Interpretation of certain terms and words.**

Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The word "person" includes a firm, co-partnership, company, corporation, or association.

The word "lot" includes the word "plot" or "parcel."

The word "building" includes the word "structure."

The word "shall" is always mandatory, and not merely directory.

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

The word "district" shall mean "Zoning District" for the purposes of this chapter.

The word "map" or "zoning map" shall mean "Official Zoning Map of the City of Cleveland" for the purposes of this chapter.

## Sec. 2.2. Definitions.

For the purposes of this chapter, certain terms of words used herein shall be defined as follows:

*Accessory structure:* A structure on the same lot with, and of a size and nature customarily incidental and subordinate to, the principle structure. Examples of accessory structures include, but are not limited to, the following: detached garages and/or carports; storage structures and/or barns; freestanding greenhouses; aboveground swimming pools and pool houses; tennis courts; freestanding workshops; freestanding decks and gazebos; and freestanding ATM bank machines.

*Accessory use:* A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

*Acre.* For the purpose of this chapter, a measure of land consisting of 43,560 square feet.

*Acreage.* Acres collectively in a tract of land.

*Acreage, gross and/or acre, gross.* The collective number of acres in an undeveloped, unimproved tract of land.

*Acreage, net.* The collective number of acres in a tract of land less the amount of area improved by public streets and roads.

*Administrator, zoning.* The designated employee for the planning and zoning for the city.

*Adolescent treatment facility.* A facility established for the treatment and counseling of emotionally disturbed or "troubled" adolescent youth in a highly structured environment which may include housing for a temporary period of time.

*Adult entertainment establishments.* Any commercial establishment, which has as its primary purpose or business the offer for sale of any book, publication or film/video which depicts nudity, or sexual conduct or engages in services such as bath houses, massage parlors, wrestling parlors or like activity including a nightclub, cabaret, lounge or other establishment which features adult entertainment.

*Adult entertainment.* Performances by topless and/or bottomless dancers, strippers or similar entertainers, where such performances are characterized by the display or exposure of specific anatomical areas; any book, publication or film/video which depicts nudity, or sexual conduct, and bath houses, massage parlors, wrestling parlors or like activity including a nightclub, cabaret, lounge or other establishment which features adult entertainment.

*Agriculture.* Agriculture shall be considered to mean the raising of soil crops and livestock in a customary manner on tracts of land at least twenty (20) acres in size and shall include all associated activities.

*Alley.* A private or public thoroughfare which affords a secondary means of access to abutting property and not intended for general traffic circulation.

*Amenity:* Aesthetic or other characteristics that increase a development's desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as recreational facilities, pedestrian plazas, views, streetscape improvements, special landscaping, water features, or attractive site design.

*Apartment.* A dwelling unit for lease or rent within an apartment building or other similar building for occupancy for an extended period of time.

*Apartment, accessory.* An accessory dwelling which is subordinate to a principal structure or use which may be rented by persons not related to the owner of the property.

*Apartment building.* A residential building containing three (3) or more dwelling units exclusive of a townhouse building or unit.

*Apartments, garden.* A multi-family dwelling development consisting of residential buildings two (2) to three (3) stories in height with generous landscaping and recreational areas.

*Automotive garage.* A use primarily for the repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or major components of automobiles and motorized vehicles.

The repair of heavy trucks, equipment, and automobile body work shall not be included in this use. The outside storage of unlicensed and unregistered vehicles is prohibited as part of this use. (see "Automotive specialty shop and service station") Outdoor storage shall be limited to eight vehicles per bay.

*Automotive minor repair.* Automotive maintenance functions including but not limited to the replacement, installation or repair of tires, mufflers, batteries, brakes and master cylinders, shock absorbers, electrical instruments and minor tune-ups involving the changing of spark plugs, points or condenser, and engine block oil changes for passenger cars, vans, and light trucks only. Outdoor storage shall be limited to eight vehicles per bay.

*Automotive specialty shop.* A use which provides one (1) or more specialized minor repair, sales and/or maintenance functions such as the sale, replacement, installation or repair of tires, mufflers, batteries, brakes and master cylinders, shock absorbers, instruments (such as speedometers and tachometers), radios and sound systems or upholstery for passenger cars, vans, and light trucks only. No use authorized herein shall permit any private or commercial activity which involves the painting, repair, or alteration of the auto body; nor shall any repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or cooling system be permitted, except that minor tune-up involving the changing of spark plugs, points or condenser, including engine block oil changes, are permitted. Outdoor storage shall be limited to eight vehicles per bay.

*Bed and breakfast inn.* A facility, residential in nature, in which overnight accommodations are provided to visitors for compensation, frequently with a morning meal. A bed and breakfast inn may include an afternoon and/or evening meal for guests. The operators of the facility live on the premises. A bed and breakfast inn does not include retail uses, public bar, or conference center.

*Berm.* An earthen mound or embankment, usually two (2) to six (6) feet in height, designed to screen views, reduce noise, or fulfill other such purposes.

*Buffer.* A barrier which is created by use of trees or other acceptable plant or vegetative material alone or in combination with berms, fencing, or walls used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, and/or dissimilar uses. A buffer, when required by this chapter, is in addition to the amount of area required by a setback unless otherwise stated. Buffer areas shall be required along all property lines, including those, which abut along a public right-of-way as indicated in this chapter.

*Buffer, natural/undisturbed.* An existing natural barrier which contains a stand of evergreen trees or other acceptable vegetative material with a density or intensity which in the opinion of the planning staff meets the intent of the definition of a buffer.

*Buffer, planted/landscaped.* A planted natural barrier which contains a stand of evergreen trees or other acceptable vegetative material with a density or intensity which in the opinion of the city planning staff meets the intent of the definition of a buffer.

*Buildable area.* The portion of a lot remaining and available for construction of a structure after required setbacks, yards, and buffers have been provided. Buildable area cannot contain any setback areas, easements, and similar building restrictions, and cannot contain any land that is identified as floodplain areas, riparian buffer areas, except as otherwise provided in this ordinance.

*Building.* Any structure which has a roof and which is for the shelter, support or enclosure of persons, animals, or property of any kind.

*Building, accessory.* A detached, subordinate structure, the use of which is clearly incidental to, customarily associated with, and related to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

*Building, principle.* The building containing or to contain the principle use of a lot.

*Building height.* The vertical distance of a building measured from the average elevation of the finished lot grade along the front of the building to the highest point of the building.

*Building line.* A building line is one which is no closer to a lot line than the minimum yard setback requirements. (also referred to as yard line)

*Building type.* The arrangement of structures and their placement next to, above, or below each other. "Single-family detached" and "multifamily attached" are examples of residential building types.

*Bumper blocks.* Raised concrete wheel stops placed at the head of a parking space to keep a vehicle from encroaching into an adjoining parking space or landscape buffer.

*Car wash, principle.* A primary or main use which provides space for cleaning vehicles.

*Car wash, accessory.* A customarily incidental use of an attached or detached bay for cleaning vehicles.

*Carport.* A partially enclosed structure used for the housing of motor vehicles, the property of, and for use only by the occupants of the lot upon which such structure is located. For purposes of zoning, a carport attached to a principal structure shall be regarded as part of that principal structure and not as an accessory structure. A detached carport shall be classified as an accessory structure.

*Cemetery, human.* The use of property as a burial place for human remains. Such a property may contain a mausoleum.

*Cemetery, pet.* The use of property as a burial place for the remains of pets. Such a property may contain a mausoleum.

*Club or lodge, non-commercial.* An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public.

*Cluster development.* A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

*Commercial vehicle.* A school bus, commercial bus, or church bus, tractor trailer, tandem rig, or any other vehicle driven for hire or utilized in conducting business affairs, such as transportation of equipment, freight, goods, or individuals.

*Communication tower.* A structure that is intended to send and/or receive radio, television, or cellular communications. (This term does not include non-commercial shortwave radio towers).

*Condominium.* A building containing three (3) or more individually owned dwelling units and related, jointly owned, common areas as defined by the laws of the State of Georgia.

*Construction vehicle.* Any vehicle (other than passenger vehicle, pick-up or panel truck) having a primary purpose of land clearing or grading, hauling, and use in building construction, including but not limited to earth moving equipment such as bulldozers, loaders, backhoes, bobcats, trenching machines and dump trucks.

*Convenience store.* A use offering a limited variety of groceries, household goods, freshly prepared foods, and personal care items, always in association with the dispensing of motor fuels as an accessory use, but in all cases excluding vehicle service, maintenance, and repair.

*Crematory.* A facility authorized by the State of Georgia Department of Human Resources, other than a hospital, clinic, or laboratory, in which cremation is performed.

*Day care facility.* Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia as a group day care home or day care center, wherein are received for pay for group supervision and care, for fewer than twenty-four (24) hours per day, seven (7) or more persons.

*Density.* The number of families, individuals, dwelling units, or housing structures per unit of land. The standard for density in single-family attached and multi-family districts shall be gross density which includes all land within the boundaries of the area excluding flood plain areas and standing bodies of water.

*Development.* The subdividing of land into two (2) or more lots; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

*Dimension stone.* Natural stone or rock that has been selected and fabricated (i.e., trimmed, cut, drilled, ground, or other) to specific sizes or shapes.

*Dwelling, duplex.* A building containing two (2) single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof.

*Dwelling, multi-family.* A building containing three (3) or more dwelling units, with each dwelling unit having a common wall or common floor connecting it to at least one (1) other dwelling unit in the building.

*Dwelling, patio house.* A single-family detached dwelling designed around an open court within the interior of the lot, around which rooms are located and oriented. (Also known as an atrium house).

*Dwelling, single-family attached.* One (1) of a series of two (2) or more single-family dwelling units

on separate lots attached to another dwelling unit on an adjoining lot by a common party wall.

*Dwelling, single-family detached.* A building containing one (1) dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

*Dwelling, townhouse.* One (1) of a group of three (3) or more single-family attached dwelling units under fee simple or condominium or cooperative ownership, as defined by the laws of the State of Georgia, 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 (1) or more vertical common fire-resistant walls. For the purposes of this chapter the term "townhouse dwelling" shall not include a single-story attached dwelling unit.

*Dwelling unit.* An enclosure of one (1) or more rooms in addition to kitchen and bathroom facilities, but excluding closets, designed or constructed as a unit for residential occupancy by one (1) family.

*EarthCraft House certification.* A green building program that addresses energy efficiency, durability, indoor air quality, resource efficiency, waste management, and water conservation.

*Easement.* A grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

*Ecodevelopment.* A proactive development approach, whereby actions such as incorporating natural topography, landscaping with native plant species, creating natural stormwater management systems, and decreasing impervious cover are implemented in order to improve water quality, reduce infrastructure needs, and to minimize the negative secondary effects on ecology caused by land development.

*Equipment, heavy duty.* Includes but is not limited to bulldozers, loaders, backhoes, bobcats, farming equipment, or other similar machinery.

*Extended-stay occupancy.* Temporary lodging at an establishment providing dwelling units for occupancy for a period of time consisting of no more than a 14-day consecutive day period.

*Family.* A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability in a permanent and long-term relationship as opposed to one that is short-term or transient.

*Family day care.* A home occupation in which shelter, care, and supervision are provided for six (6) or fewer persons on a regular basis. A family day care may provide basic educational instruction.

*Floor area, gross.* The total number of square feet of floor area in a building determined by horizontal measurements between the exterior faces of walls, excluding basement areas, porches, carports, and garages.

*Floor area, net.* The sum of all floors of a structure as measured to the outside surfaces of exterior walls, excluding halls, stairways, restrooms, elevator shafts, spaces devoted exclusively to permanent mechanical systems, permanent storage areas, attached and detached garages, porches, balconies, attics with less than seven (7) feet of head room, basements, patios, and decks.

*Funeral home.* A building used for human funeral services. Such building may contain a chapel and space and facilities for embalming and the performance of other services used in the preparation of the dead for burial or cremation, the performance of autopsies and other surgical procedures, the indoor storage of caskets, funeral urns, and other related funeral supplies, and the indoor storage of funeral vehicles. Cremation of the dead may occur within the building.

*Green building.* A method of building which includes protecting existing trees and natural landscape by clearing only the amount of area needed to construct the building, recycling job site waste, installing high-efficiency water heaters and appliances, using engineered lumber products, recycled building materials and nontoxic building materials, constructing energy-efficient buildings with highly insulated walls and ceilings and double pane windows and installing water conserving landscaping and plumbing, such as the use of native, drought-tolerant plants and low-flow water fixtures, and utilizing fly ash concrete in foundations.

*Group home.* A dwelling shared by twelve (12) or less persons, excluding resident staff, who live

together as a single housekeeping unit and in a relatively permanent, family-like environment in which staff persons provide assisted living care and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible. This use shall apply to homes for the handicapped.

As used herein, the term "handicapped" shall mean having:

- (1) A physical disability that substantially limits one (1) or more of such person's major life activities so that such person is incapable of living independently;
- (2) A record of having such disability; or
- (3) Being regarded as having such a disability.

However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include the following uses:

- (1) Alcoholism or drug treatment center;
- (2) Work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration;
- (3) Medical or psychological treatment center;
- (4) Homeless shelter or hospice.

*Guest house.* A detached accessory dwelling unit located on the same lot with a single-family dwelling unit. The square foot area of a guest house may not exceed fifty (50) percent of the heated and finished floor area of the principal building on the lot or one thousand (1,000) square feet in floor area, whichever is less, and may be used only by family members, guests, or family employees without payment or consideration.

*Halfway house.* A less permanent and less family-like living arrangement established to help people recovering from drug or alcohol addictions adjust to a drug-free lifestyle. A halfway house may also be used to provide a structured living environment for persons learning to adjust to society after being imprisoned.

*Heated floor area.* The finished area within a building or structure that is heated by the main central heating system installed to serve said building or structure. For example, the floor area of an unfinished basement of a residential dwelling or an attached garage to a residential dwelling is not included in determining the amount of heated floor area of a residential dwelling. ("Heated floor area" and "living area" shall have the same meaning).

*Home occupation.* An occupation for gain or support customarily conducted on the premises by a person or family residing thereon. The term "home occupation" shall not be deemed to include a bed and breakfast inn.

*Homeless shelter.* Charitable, non-profit, short-term housing and/or room and board accommodations for the homeless for which there is no charge, monetary or other, to the person being provided such temporary housing.

*Hospice.* A home-like facility for the care of terminally ill persons in which food, shelter and nursing care is provided.

*Hotel.* A facility or building or other structure kept, used maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, and in which five or more rooms are used for the sleeping accommodations of such guests. Motels meeting the qualifications set out herein for hotels are classified in the same category as hotels.

*Impervious surface.* Any material or surface that prevents absorption of stormwater into the ground. Includes but is not limited to buildings, asphalt and concrete surfaced streets, parking lots, and sidewalks.

*Impervious surface, non.* All that area of a lot which is not covered by buildings, asphalt or concrete surfaced streets, parking lots, or sidewalks or any other impervious surface.

*Industrialized building.* A factory-fabricated dwelling or commercial unit built in one (1) or more sections designed to fit together on a permanent foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act

and which bears the seal of approval issued by the commissioner of community affairs. (Includes the term "modular building").

*Infill Development.* New construction or redevelopment that occurs on vacant lots or lots having remaining buildable area in otherwise developed locations. Infill projects can take several forms, such as a single-lot development or multi-parcel projects.

*kennel.* An establishment in which dogs or other domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

*Leadership in Energy and Environmental Design (LEED).* Green building certification system, developed by the U.S. Green Building Council, that provides third-party verification that a building or community was designed and built using strategies aimed at improving performance in energy savings, water efficiency, carbon dioxide emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.

*Livestock.* Domestic animals raised for use and/or sale.

*Lot.* A lot of record, or any combination of lots of record, held in a single ownership by one (1) person, or in common ownership by more than one (1), which has both lot area and lot dimensions equal to or greater than the lot width and lot area requirements established by this chapter for the zoning district in which such tract of land is located and for the use proposed for the tract of land.

*Lot, corner.* A lot having frontage on two (2) or more public streets at their intersection.

*Lot coverage.* That portion of the lot that is covered by buildings. Lot coverage excludes paved walkways, drives, and parking areas.

*Lot depth.* The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

*Lot frontage.* The shortest lot line adjoining a street right-of-way. A lot line adjoining a stub street shall not be considered as frontage unless it is proposed for access or is the only street frontage. Front yard requirements shall be measured from this lot line. In situations where a multiple frontage lot has equal distance on street frontages, the zoning administrator shall determine the legal lot frontage.

*Lot line.* A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

*Lot line, front.* The lot line separating a lot from a street right-of-way.

*Lot line, rear.* The lot line most opposite and most distant from the front lot line.

*Lot line, side.* Any lot line other than a front or rear lot line.

*Lot of record.* A lot that exists as shown or described on a plat or deed in the records of the Office of the Clerk of the Superior Court of White County.

*Lot of record, substandard.* A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

*Lot, through.* A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

*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 setback line.

*Manufactured home.* A structure transportable in one (1) or more sections and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Such dwelling is regulated by the manufactured home construction and safety standards, of the most recently adopted HUD Code.

*Mineral extraction.* Severance and/or removal of sand, stone, gravel, top soil, and other mineral resources whenever such severance and/or removal is not conducted in conjunction with a permitted development activity.

*Mining, surface.* Any activity constituting all or part of a process for the removal of minerals, ores, and other solid matter for sale or for processing or for consumption in the regular operation of a business. Tunnels, shafts, borrow pits of less than 1.1 disturbed acres, and dimension stone quarries, in which



building stone is quarried and prepared in regularly shaped blocks, shall not be considered to be surface mining.

*Mobile home.* Any trailer, vehicles, or similar portable structure mounted on wheels, or designed for mounting on wheels, intended for dwelling purposes, including structural additions, except camping type trailers parked and unoccupied. Such unit shall be considered a mobile home whether or not the wheels have been removed and whether or not on a permanent foundation.

*Mobile home park.* A parcel of land which has been planned and improved for the placement of manufactured and mobile homes for non-transient use on leased sites and which may include other facilities such as a grocery store and laundromat established to specifically serve the mobile home park.

*Modular structure.* A factory-fabricated, transportable structure consisting of units designated to be incorporated at a structure site on a permanent foundation into a structure.

*Motel.* A facility or building or other structure kept, used maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, and in which five or more rooms are used for the sleeping accommodations of such guests. Motels meeting the qualifications set out herein for hotels are classified in the same category as hotels.

*Non-conforming use.* A lawful use of, or vested right to use any building, structure or land existing at the time of the adoption of this chapter or the adoption of any amendment thereto.

*Non-subdivided.* Any lot having more than one (1) zoning district applicable to said lot.

*Nursing home facility.* Housing for elderly, chronically, or terminally ill persons in which food, shelter and nursing care is provided for compensation.

*Office, professional.* Includes, but is not limited to, offices of accounting, auditing, bookkeeping, engineering, architectural, finance, real estate, and insurance professions.

*Office, temporary.* A trailer, mobile home, manufactured, or modular building which is used as a sales office, on-site construction management office or related functions.

*Official zoning map.* A legally adopted map that conclusively shows the location and boundaries of zoned districts existing at the time of adoption of said map and any adoption of amendments thereto.

*Open space.* Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and protection of environmentally sensitive land areas or natural land features. Excludes streets, drives and yards.

*Ordinance.* This chapter and all amendments thereto including the Official Zoning Map of the City of Cleveland adopted in conjunction with this chapter.

*Outdoor display.* The displaying of goods or merchandise outdoors on the property with the intent to advertise for sale said goods.

*Outdoor play structure.* For the purposes of this chapter, an outdoor play structure shall mean any structure (except pools) erected on a lot for the purpose of recreational use. Includes, but is not limited to, slides, swings, climbing equipment, and play houses. Outdoor play structures shall be considered accessory structures.

*Outdoor storage.* The keeping, in an unenclosed area, of any goods, salvage, material, merchandise, storage trailers, or vehicles outdoors on the property for more than twenty-four (24) hours. The term "outdoor storage" shall not include the keeping of vehicles or manufactured housing structures on sales lots in districts which allow such sales lots.

*Outparcel.* A portion of a larger parcel of land generally designed as a site for a separate structure and business from the larger tract. An outparcel may or may not be a subdivision of a larger parcel. To be recognized as an outparcel, the portion must be identified on a site plan approved for the larger parcel.

*Owner(s).* If a sole proprietorship, the proprietor; if a partnership, all partners (general and limited); if a corporation, all officers, directors and persons holding at least ten (10) percent of the outstanding shares.

*Patio Home.* A patio home is a type of single-family home that is attached to one or more neighboring homes often of a very similar style. Patio houses are individually owned single-family houses, typically rising only a story or two, with a small yard in front.

*Permanent makeup* is synonymous with cosmetic tattooing and includes the application of permanent eyeliner, eyebrows, full lip color, re-pigmentation or camouflage using tattooing techniques of placing pigments under the skin. Camouflage, a method of disguising or concealing permanently blotchy or irregularly pigmented skin, acne scarring or other permanent skin irregularities by the use of blending pigments into the skin, is allowed. Tattoo camouflage, using tattooing methods to cover up, mask, or alter an existing tattoo so that it is either rendered less noticeable or takes on a different design, thereby obliterating the original design, is prohibited.

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

*Personal care home.* A use in which care is provided for elderly non-family members who are typically provided with food, shelter and care. This use shall not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the physically sick or injured or mentally ill or disturbed.

*Personal service establishment.* A facility engaged in the provision of services to persons and their apparel, including but not limited to barber and beauty shops, coin-operated and full-service laundries and dry cleaners, photographic studios, shoe repair and shoeshine shops, and travel agencies, unless already defined.

*Piercing parlor* is any place in which a fee is charged for the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature. Does not include the use of a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

*Places of assembly.* A building, or part of a building, in which facilities are provided for such purposes as meetings for civic, educational, political, or social purposes and may include a banquet hall, private club, or fraternal organization.

*Planned development.* A tract of land developed under a single ownership or control based on a plan which allows for flexibility of design not available under normal zoning district requirements.

*Planned shopping development.* Two (2) or more commercial establishments with a total gross floor area of at least forty thousand (40,000) square feet, planned and managed as a single unit with off-street parking and loading facilities provided on the property.

*Plat.* A map, plan, or layout of a county, city, town, lot, section, subdivision, or development certified by a registered surveyor indicating the location and boundaries of a property or properties.

*Prefabricated structure.* A structure manufactured at an offsite location and brought to a site as fully assembled for installation.

*Recreational vehicle.* Boat trailers and any type of portable structure without a permanent foundation, which can be towed, hauled or driven or designed for temporary living accommodations for recreational, camping, and travel use, including, but not limited to, travel trailers, truck campers (on or off the truck), camping trailers and self-propelled motor homes.

*Recycling center, collecting.* Any facility utilized for the purpose of collecting materials to be recycled including, but not limited to, plastics, glass, paper, and aluminum materials. Such use may be principal or accessory to a non-residential use on non-residentially zoned property.

*Recycling center, processing.* Any facility utilized for the purpose of collecting, sorting, and processing materials to be recycled including, but not limited to, plastics, glass, paper, and aluminum materials whenever.

*Repair garage, automobile.* A use which may provide a full-range of automotive repairs and services including, but not limited to, major overhauls, engine and transmission repair, rebuilding, and replacement and may include paint and body shops. The outside storage of unlicensed and unregistered vehicles is prohibited as a part of this use. Outdoor storage shall be limited to eight vehicles per bay.

*Repair garage, heavy equipment.* A use which may provide a full-range of repairs and services including, but not limited to, major overhauls, engine repair, rebuilding, and replacement on heavy duty trucks and equipment and may include paint and body shops. The outside storage of unlicensed and unregistered vehicles is prohibited as a part of this use. Outdoor storage shall be limited to eight vehicles per bay.

*Religious institution.* A building in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship, or for teaching a particular form of religious belief.

Excludes a religious bookstore or similar retail or wholesale establishment.

*Residential.* Pertaining to the use of land, means premises such as single-family detached and attached homes, patio homes, townhouses, mobile homes, duplexes, condominiums, or apartment complexes which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein.

*Retail business.* A business consisting primarily of buying merchandise or articles in gross and selling to general consumers in small quantities or broken lots or parcels and not in bulk and not for resale.

*Retirement center.* A residential housing development consisting of building(s) or individual housing units designed for senior adults. This development may include but not be limited to transportation, medical care, food preparation, and the like. Restrictions on this development based on age, declarations, bylaws, homeowners' association, and the like shall not be enforced by the City of Cleveland.

*Right-of-way line.* The dividing line between a lot, tract or parcel of land and a contiguous right-of-way.

*Salvage yard.* Use of property for outdoor storage, keeping, abandonment, sale, or resale of salvage including scrap metal, used lumber, salvaged house wrecking and structural steel materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

*School.* A facility where persons regularly assemble for the purpose of instruction or education including any playgrounds, stadiums, or other structures and grounds used in conjunction therewith. The term "school" shall include, but is not limited to, public and private schools used for pre-kindergarten, primary, secondary, or post-secondary education.

*Setback.* The required minimum distance between the structure, whether principle or accessory, and any lot line.

*Setback line.* That line that is the required minimum distance of a structure from any lot line and that establishes the area within which the principal structure must be erected or placed.

*Service station.* A use which provides for the sale of motor vehicle fuels and automotive accessories, and which may provide minor repair and maintenance services. A service station shall be limited to two (2) bays.

*Sign, freestanding.* A self-contained sign structure of a permanent nature which is wholly independent of any building or other structure. New signs shall be in compliance with the city sign ordinance.

*Special use.* A use approved by the City Council, in accordance with a public hearing, which authorizes such use which must meet certain standards which may exceed the requirements of the district as a whole.

*Street, alley.* A street having a minimum right-of-way of twenty (20) feet and which is used primarily as a service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

*Street, arterial.* A street which is used primarily for fast and heavy traffic flow, is of considerable continuity, and is used as a traffic artery for inter-transportation between large areas.

*Street, local.* A street which is used primarily in residential subdivisions for access to abutting properties as opposed to the collection and disbursement of traffic.

*Street, major collector.* A street which carries traffic from activity centers and minor collector streets to arterial streets.

*Street, minor collector.* A street which is primarily used as a link between local streets and major collectors or arterial streets.

*Street, public.* Right-of-way dedicated to the City or owned by the City, or any other state or county public right-of-way.

*Street Connectivity.* The quantity and quality of connections in the street network. The design of the street network determines how direct or indirect the connections are and governs the number of paths that connect two places.

*Structure.* Anything constructed, erected, or placed with a fixed location on or in the ground, or attached to something having a fixed location on the ground. The term "structure" shall include, but is not

limited to, buildings, mobile homes, billboards, freestanding signs, swimming pools, fall-out shelters, and truck or van trailers or bodies if detached from the cab of the vehicle and placed on the property to be used as a storage facility. For the purposes of this chapter, privacy walls and/or fences shall not be considered structures.

*Structure, accessory.* A subordinate structure, customarily incidental to a principal structure or use and is located on the same lot. Examples of accessory structures in residential districts shall include, but is not limited to, tool sheds, guest houses, detached garages, and play sets. Examples of accessory structures in non-residential districts shall include, but is not limited to, storage buildings, freestanding signs, play sets, and detached carwashes.

*Structure, principle.* A structure in which the principle use or purpose on a property occurs, and to which all other structures on the property are subordinate. Principle shall be synonymous with main and primary.

*Subdivision.* Any division of a tract or parcel of land into two (2) or more lots, building sites, or other parts for the purpose of immediate or future sale, legacy, or building development. The term includes re-subdivision and any division of land involving a new street, existing street, or a change in existing streets, and, as appropriate to the context, relates to the process of subdividing or to the land or area subdivided. The term does not include the combination or recombination of portions of previously platted lots, where the total number of lots is not increased and the resultant lots meet the standards of the city where no new streets or new utility services are involved.

*Subdivision design, conventional.* Residential developments where all the land is divided into house lots and streets.

*Subdivision design, open space.* Residential developments where a percentage of the buildable land area is designated as common undivided, permanent open space.

*Surface, all-weather.* Any surface treatment, including gravel, which is applied to and maintained so as to prevent erosion, and to prevent vehicle wheels from making direct contact with soil, sod or mud; and which effectively prevents the depositing of soil, sod or mud onto streets from areas required to be so treated.

*Sustainable development.* A pattern of resource use that aims to meet human needs while ensuring that future needs may be met.

*Tattoo parlor.* A place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, excluding permanent makeup (also known as cosmetic tattooing), by the aid of needles or any other instrument designed to touch or puncture the skin.

*Townhouse.* A multi-living unit structure in which each living unit and lot is owned in fee simple. Individual dwelling units within a townhouse are separated by a firewall.

*Travel trailer.* A vehicular portable structure whether self-propelled or pulled by a power unit, designed for temporary occupancy for travel, recreation, or vacation uses. See also "recreational vehicle".

*Truck, heavy duty.* A vehicle designed for hauling supplies, materials, or other vehicles and which has a weight of four (4) tons or greater empty weight or having a carrying capacity of more than one and one-half (1 1/2) tons.

*Truck terminal.* A primary use of property where trucks/trailers are temporarily stored, maintained, or based. Trucks/trailers shall have current registration and license plates with decal.

*Use, accessory.* A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

*Use, principle.* The principle purpose for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.

*Variance.* A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not

the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

*Wholesale business.* A business primarily engaged in the selling of goods or articles in gross to retailers or jobbers for resale and not to the ultimate consumer.

*Wildlife conservation park.* A place where animals are kept, often in combination of indoor and outdoor spaces, and are viewed by the public.

*Yard.* An open space that lies between the principle building or buildings and the nearest line. The minimum required yard as set forth in this chapter is unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter.

*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.

*Yard, rear.* A space extending across the full width of the lot between the principle building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

*Yard, required.* The open space between a lot line and the yard line within which no structure shall be located except as provided in this chapter.

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

*Yard line.* A line drawn parallel to a lot line at a distance there from equal to the depth of the required yard. Also referred to as a building line.

*Zoning.* The power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

## ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS

### Sec. 3.1. Zoning districts.

In order that the purposes of this chapter as defined in Article I may be accomplished, there are hereby established within the City of Cleveland, the zoning districts identified as follows:

3.1.1. *AG Agricultural*: The purpose of this district is to encourage the retention and development of suitable areas for common farm practices and various compatible non-farm uses, preservation of open space, the conservation and management of soil, water, air, game, and other natural resources and amenities, and to discourage the creation or continuation of conditions which could detract from the function, operation, and appearance of areas to provide food supplies and to prevent or minimize conflicts between common farm practices and non-farm uses.

3.1.2. *R-1 Single-family Residential*: The purpose of this district is to provide low density residential areas for single-family detached dwellings with minimum lot sizes of fifteen thousand (15,000) square feet.

3.1.3. *R-2 Single-family Residential*: The purpose of this district is to provide orderly development of low-density residential areas for single-family detached dwellings with minimum lot sizes of fifteen thousand (15,000) square feet, and two acres for use of congregate homes, group homes, personal care homes, and related type settings.

3.1.4. *R-3 Single-family Residential*: The purpose of this district is to provide orderly development of high-density residential areas for fee simple row houses, town houses, condominiums, single-family attached, semi-detached, and clustered detached dwellings not to exceed eight (8) dwelling units per gross acre.

3.1.5. *R-4 Multi-family Apartment Residential*: The purpose of this district is to provide orderly development of high-density residential areas for multi-family residential uses not to exceed ten (10) dwelling units per gross acre.

3.1.6. *PR-D Planned Residential Development*: The purpose of this district is to provide suitable areas for development of planned communities at a density that allows a full range of residential uses and housing types; neighborhood retail, service, and office uses; and open space. The residential area may include single-family detached dwellings and/or attached dwellings such as patio homes, condominiums, or townhouses, and apartments.

3.1.7. *PC-D Planned Commercial Development*: The purpose of this district is to provide suitable areas for development and redevelopment of commercial properties with the flexibility to allow a full range of uses and designs for retail, service, and/or office centers; outparcels; infill buildings; and open space.

3.1.8. *PM-U Planned Multiple Use*: The purpose of this district is to provide orderly development of areas in which residential, professional, commercial retail and services, financial, educational, and institutional uses can be compatibly mixed while maintaining a healthy living environment for the residents of the district.

3.1.9. *B-1 Central Business District*: The purpose of this district is to enhance and preserve the historic Courthouse Square and its approaching corridors of the City while providing for a small scale local sales, services, hospitality, dining, entertainment and professional offices and also providing for residential dwellings within existing commercial and office buildings in the district and in close proximity to the courthouse square.

3.1.10. *B-2 Highway Commercial District*: The purpose of this district is to provide for and encourage the proper grouping and development of highway and arterial uses which include a wide variety of sales and services that will accommodate the needs of the City and the traveling public in order to reduce highway traffic congestion, traffic hazards, and blight along the major public streets of the City.

3.1.11. *P-I Public/Institutional*: The purpose of this district is to provide areas for public land, parks, governmental buildings and facilities, cemeteries, crematories, and educational and institutional uses.

3.1.12. *L-I Light Industrial*: The purpose of this district is to provide and protect areas for those industrial uses which do not create noise, odor, smoke, dust or other emissions and which do not possess other objectionable characteristics which might be detrimental to surrounding neighborhoods or other uses

permitted in the district, and provide areas for other uses as permitted.

3.1.13. *H-I Heavy Industrial*: The purpose of this district is to provide and protect areas for those industrial uses which cannot comply with the regulations of the L-I district but do comply with all state and federal guidelines for emissions and discharge of effluents into the air, water, and soil, and to provide areas for other uses as permitted. All H-I uses require a conditional use or a special use permit from the City Council.

### **Sec. 3.2. Zoning map.**

The boundaries of each district are shown on a map entitled "Official Zoning Map of the City of Cleveland, Georgia", dated and certified by the Mayor and City Clerk. Said map and all explanatory matter thereon accompanies and is hereby made a part of this chapter and the original Official Zoning Map of the City of Cleveland shall be kept in the recorded minutes in the city clerk's office.

Accurate copies of the Official Zoning Map of the City of Cleveland, Georgia shall be on file, in hard copy or in a digital format, in the office of the zoning administrator at all times. Said map shall accurately show all map amendments made in accordance with the provisions of this chapter, and the date when said amendments became effective. It shall be the duty of the zoning administrator to see to it that the zoning map, whether displayed in his/her office in hard copy or available in digital format, is kept up-to-date and accurately shows all amendments.

### **Sec. 3.3. Interpretation of zoning district boundaries.**

When uncertainty exists with respect to the location of boundaries of any zoning district as shown on the Official Zoning Map of the City of Cleveland, Georgia, the following rules shall apply:

3.3.1. Unless otherwise specifically indicated, where district boundaries are indicated on the zoning map as approximately following the centerline of a street, highway, railroad right-of-way line, stream bed or river bed; such centerline shall be construed to be such district boundaries.

3.3.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3.3.3. Where district boundaries are indicated on the zoning map as approximately following the corporate limit line of the City, such corporate limit lines shall be construed to be such district boundaries.

3.3.4. Where district boundaries are indicated on the zoning map as being set back from a street, road, highway, railroad, stream, or river, and parallel thereto, then such district boundaries unless otherwise specifically indicated, shall be construed as being at the scaled distance from the centerline of such street, road, highway, railroad, stream, or river and as being parallel thereto.

3.3.5. Where a public road, street, alley, or other right-of-way is officially vacated or abandoned, the zoning applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, alley, or right-of-way.

3.3.6. Where a district boundary divides a lot existing on or before (insert DATE of ADOPTION here), the location of such boundaries, unless same are indicated by dimensions, shall be determined by use of the scale appearing on such maps. Property owners may request the City rezone the entire property to one of the existing zonings or subdivide the property along the district boundary provided all lot standards are achieved for each newly created lot.

## **ARTICLE IV. GENERAL PROVISIONS**

### **Sec. 4.1. Interpretation and application.**

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations. Except as hereinafter provided, these regulations shall not be deemed to interfere with, abolish, annul, or otherwise affect in any manner whatsoever any easements, covenants, or other agreements between parties. Whenever the provisions of these regulations impose greater restrictions upon the use of land, buildings, or structures, or upon the height of buildings, or structures, or require a larger percentage of lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits, or any easements, covenants, or other agreements between parties, the provisions of these regulations shall govern.

### **Sec. 4.2. Zoning affects all land and buildings.**

No buildings, structures, or land shall be used or occupied; and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with the regulations of this chapter.

### **Sec. 4.3. Every use must be upon a lot.**

No building or structure may be erected or use established unless upon a lot as defined by this chapter unless otherwise noted.

### **Sec. 4.4. Only one (1) principle building per lot.**

Except as herein after provided, there shall be no more than one principle building or structure upon any lot in a single-family residential district.

### **Sec. 4.5. Open space not to be encroached upon.**

No open spaces shall be encroached upon or reduced in any manner except in conformity to the yard, setback, off-street parking spaces, and such other regulations required by this chapter for the district in which such building is located. Shrubbery, driveways, retaining walls, fences, curbs, and planted buffer strips shall be construed not to be encroachments of yards. Refer to section 4.20 of this chapter.

### **Sec. 4.6. Required open space may not be used by another building.**

No part of any yard, other open space, or off-street parking or loading space required or in connection with any building, structure or use by this chapter shall be considered to be part of a required yard, or other open space, or off-street parking or loading space for any other building structure or use unless otherwise noted.

### **Sec. 4.7. Reduction of yards or lot area.**

Except as provided in section 4.18 of this chapter, no lot existing as of (insert DATE OF ADOPTION here) shall be reduced, divided, or changed so as to produce a tract of land which does not comply with the minimum dimension or area requirements of this chapter for the district in which it is located unless said reduction or division is necessary to provide land that is needed and accepted for public use.

### **Sec. 4.8. Encroachment on public rights-of-way.**

No privately owned structures other than driveways, access walkways, and mailboxes shall be permitted within a public right-of-way. Signs and other structures belonging to the State of Georgia, White



County, and the City of Cleveland, or for the purposes of railroad or utility use are exempt from this provision provided they are properly permitted, and agreement provisions are in place with the City of Cleveland.

#### **Sec. 4.9. Accessory uses, buildings or structures.**

Accessory uses, buildings, or structures on residential lots shall be located within a rear yard only and be a minimum of ten (10) feet from all property lines which do not abut a street right-of-way. A detached garage or carport may be allowed in a side yard of a residential lot and, if so placed, shall comply with the side yard setback requirements of the district. In the case of a residential corner lot, in which a lot abuts or adjoins the intersection of two or more streets other than an alley, an accessory structure may be allowed in a side yard and, if so placed, shall comply with the side yard setback requirements of the district.

Accessory uses, buildings, or structures on non-residential lots shall not be allowed in the front yard and must comply with side and rear yard requirements established for the zoning district in which such accessory buildings or uses are located. The following accessory uses, buildings, or structures on non-residential lots may be allowed in a front yard of a non-residential lot and, if so placed, shall comply with the front yard setback requirements of the district: ATMs (automated teller machines) and service stations.

All accessory uses, buildings, or structures in all zoning districts shall be subordinate to the principle structure. An accessory building's floor area shall be no larger than fifty percent (50%) of the principle structure floor area. Accessory structures shall not exceed the height of the most prevalent roof top of the principle building on the property.

Outdoor play structures or play sets in commercial districts, commonly associated with fast-food eating establishments, shall be located in a side or rear yard only or indoors and shall comply with the required yard setbacks of the district.

All site plans for multi-family, commercial, and industrial buildings shall include a covered solid waste container pad that has easy and safe access for a front-end loader. Solid waste containers shall be screened from all streets and adjoining properties with a solid, opaque fence or wall.

An amenity, as defined by this chapter, shall not be considered an accessory structure.

#### **Sec. 4.10. Every lot shall abut a street.**

No building shall be erected on a lot which does not have immediate frontage on at least one public street or private street as allowed by the City of Cleveland Development Regulations, for a distance of not less than the minimum allowed frontage for said lot as described in the development standards section of the applicable zoning district, except as provided for in planned developments.

#### **Sec. 4.11. Lots with multiple frontages.**

Front yard setback requirements shall apply to all yards having road frontage.

#### **Sec. 4.12. Visibility at intersections.**

On corner lots within all zoning districts no fence, shrubbery or other obstruction to the traffic sight vision, except utility poles or light or sign standards, shall exceed a height of three (3) feet within a triangular area formed by the intersection of the right-of-way lines of two (2) streets or a street intersection with a railroad right-of-way line, and a diagonal line which intersects the right-of-way lines at two (2) points, each twenty (20) feet distance from the intersection of the right-of-way lines, or, in the case of a rounded corner, from the point of intersection of their tangents; provided, however, signs, lights, or similar objects which are totally located at least ten (10) feet above the finished grade shall be permitted.

#### **Sec. 4.13. Uses prohibited.**

If either a use or class of use is not specifically indicated as being permitted in a district, either as a matter of right, or as a special use, then such use, class of use, or structures for such uses, shall be

prohibited in such district.

#### **Sec. 4.14. Zoning of annexed areas.**

Areas annexed to the City of Cleveland shall be zoned when formally requested and approved with the annexation petition. Initial zoning of annexed property shall be charged the required fee for zoning amendments as stated herein.

#### **Sec. 4.15. Emergency shelters.**

Emergency shelters for the purpose of protecting individuals from life threatening weather storms or other emergencies shall be permitted as an accessory structure in all zoning districts and shall meet the setback requirements of such structures in the district.

#### **Sec. 4.16. Fences and walls.**

No fence or wall shall constitute an obstruction to the vision for or create a hazard to vehicular traffic. In all residential zoning districts, fences and/or walls shall not exceed four (4) feet in height in a front yard and shall not exceed eight (8) feet in height in a side or rear yard. In all commercial zoning districts, fences and/or walls shall not exceed eight (8) feet in height in a side or rear yard.

In all residential and commercial zoning districts, any fence or wall which extends into the front yard shall be ornamental or decorative, and shall not be opaque. Any such fence or wall may be constructed of brick, stone, wood, wrought iron, split rail, or other decorative material as approved by the zoning administrator; provided that no fence or wall shall be constructed of exposed concrete block, tires, junk or other discarded materials, with the following exceptions:

1. Chain-link fencing material may be used with prior approval of a variance by the City Council.
2. For a corner lot or double frontage lot in a residential zoning district, a screening or opaque fence may be installed to the rear of the principle structure at a maximum of eight (8) feet in height provided that the fence shall be located behind the required front yard setback and shall not be located adjacent to or abutting a collector or arterial street.
3. The fencing standards as stated in this section shall not apply to fencing for detention ponds.
4. Fences within the Agricultural District that are customary to standard agricultural practices are exempt from the above requirements.

In all residential and commercial districts, razor wire (ribbon) shall be prohibited. In all residential and commercial districts, no retaining wall shall be constructed of exposed concrete block.

#### **Sec. 4.17. Buffer and screening requirements.**

Buffers or screening as required by this chapter are subject to review and approval by the zoning administrator. The following are required standards for buffers and shall be utilized by the zoning administrator in reviewing development plans:

1. Buffers shall be designated on the site plan and required plats as permanent buffer strip or area.

2. Buffers shall be natural/undisturbed areas of existing mature trees, which meet the intent of the definition of buffer. Where substantially devoid of existing trees, or where it is necessary to disturb the existing natural area, a planted/landscaped buffer shall be established in accordance with this section.
3. Buffers shall be established and maintained along required adjoining property to meet the minimum width requirements as stated within the City of Cleveland Standard Development Specifications.
4. Buffers shall provide year-round visual screening.
5. Buffers that utilize trees and/or other vegetation shall be installed not only to provide visual screening, but to allow for proper plan growth and maintenance.
6. Buffer design shall be integrated with the overall design concept of the project.
7. Existing tree cover and natural vegetation shall be undisturbed for areas designated as natural/undisturbed except for the addition of supplemental plantings or other approved screening, devices, or for the provision of required access or utility crossings. Where a buffer is substantially devoid of trees and shrubbery, or where a planted/landscaped buffer is proposed by the developer, grading may be allowed within the buffer area prior to replanting or the provision of other screening devices as required.

#### **Sec. 4.18. Substandard lots of record.**

Any lot of record existing as of (insert DATE OF ADOPTION here), which has an area or a width which is less than required by this chapter shall be allowed to be developed providing the setbacks of the district are maintained.

#### **Sec. 4.19. Structures permitted above the height limit.**

For nonresidential districts, the height limits of these regulations shall not apply to a church spire, belfry, cupola, dome, or ornamental tower not intended for human occupancy, historical monument, water tower, observation tower, power line tower, chimney, flag pole, mast or aerial and parapet walls not extending more than four (4) feet above the roof line of the building, and necessary mechanical appurtenances.

#### **Sec. 4.20. Outdoor lighting.**

Parking lot outdoor lighting shall be directed away and shielded from abutting residential districts. All freestanding outdoor lighting fixtures erected on private non-residential properties shall have a maximum height of forty-five (45) feet. Freestanding outdoor lighting fixtures erected on private residential properties and freestanding public street lighting fixtures in residential subdivisions and neighborhoods shall have a maximum height of thirty-five (35) feet.

#### **Sec. 4.21. Home occupations.**

A home occupation as defined by this chapter shall be governed by the following requirements:

1. Only residents of the dwelling may be engaged in the home occupation.
2. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the building.
3. There shall be no display, stock in trade, or commodity sold on the premises, and no mechanical equipment used except such as is commonly used for purely domestic household purposes.
4. Use of the building for a home occupation shall not exceed thirty percent (30%) of one (1) floor of the principle building (excludes a family day care use).
5. No alterations inconsistent with the residential use of the building shall be permitted.
6. The occupation shall not constitute a nuisance in the neighborhood.

7. No more than one (1) accessory building or outside storage shall be used in connection with the occupation.
8. Instructions in music shall not create sound at an audible level which may be a nuisance to neighboring properties.
9. Vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the home occupation.
10. No commercial equipment such as landscaping equipment or machinery associated with construction, grading, or hauling shall be allowed to be stored or parked on the property.
11. No signage shall be allowed for the home of occupation.
12. Customer parking shall be limited to the driveway of the residential dwelling.
13. All home occupations must have an occupational tax certificate.

#### **Sec. 4.22. Temporary office trailers or modular buildings.**

The use of trailers or modular buildings for construction offices shall be allowed on a construction site only and must be removed within thirty (30) days of the issuance of a certificate of occupancy; the use of trailers or modular buildings for on site real estate sales offices shall be allowed on a site for a period not to exceed twenty-four (24) months.

#### **Sec. 4.23. Outdoor storage.**

Outdoor storage shall be allowed in B-2, L-I, and H-I districts only. In B-2 and L-I districts, outdoor storage must be located in a side or rear yard and screened from all rights-of-way, and residential districts that abut the outdoor storage area. Such storage shall be screened in accordance with the requirements under section 4.17 of this ordinance. In B-2 and L-I districts, the use of trucks, truck bodies, enclosed containers, campers, recreational vehicles, or other types of motor vehicles for storage is prohibited. This section does not apply to incidental outside storage on properties in residential districts.

In the B-2 district, neither vehicles (whether operable or inoperable) nor trailers (whether on or off their axels) may be used as storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, tractor-trailer rigs, railroad box-cars, shipping containers etc. The storage of new or used tires on any B-2 district property is prohibited unless the same are stored within an enclosed building or garage. It is illegal to discard or abandon tires on any property other than a lawful landfill.

In all residential districts and uses outdoor storage must be located in the rear yard and screened from neighboring property. This includes, but not limited to recreational vehicles, boats, trailers, etc. Neither vehicles (whether operable or inoperable) nor trailers (whether on or off their axels) may be used as storage buildings. A permit is required for all accessory storage buildings.

#### **Sec. 4.24. Outdoor displays and yard sales.**

The displaying of goods or merchandise for sale outdoors on the property shall be allowed for goods or merchandise normally used in the outdoors. Merchandise allowed to be displayed outdoors includes, but is not limited to, lawnmowers, wheelbarrows, lawn furniture, barbecue grills, play sets, and manufactured out buildings. The keeping of goods or merchandise outdoors on the property, longer than a twenty-four (24) hour period shall be considered outdoor storage and shall comply with outdoor storage requirements in section 4.26 of this chapter. This section shall not apply to vehicle or manufactured housing sales lots.

Yard sales and garage sales (or carport sales) shall be permitted on any residential lot no more frequently than once per calendar quarter. Such sale may not continue for more than forty-eight (48) hours. Yard sales shall be permitted on any commercial or industrial use lot no more frequently than once per calendar month. Such sale may not continue for more than forty-eight(48) hours.

#### **Sec. 4.25. Movable Modular Storage Units**

Movable modular storage units, also known as storage pods, are permissible temporary structures, provided that such structures are located in compliance with the following standards:

1. The duration shall be limited to twenty-eight (28) days per calendar year.
2. The storage pod may be placed on a paved or unpaved surface. When the location of the storage pod is on an unpaved surface, the permit shall be conditioned upon the requirement that grass, sod, or landscaping shall be restored after removal of the storage pod.
3. The storage pod may be placed in a front, side, or rear yard.
4. The storage pod shall be placed at least fifteen (15) feet from any property line.
5. The storage pod shall not be placed within an easement, stormwater area, or required buffer.
6. The storage pod shall not obstruct pedestrian access or vehicular site lines.

**Sec. 4.26. Ground-based direct broadcast satellite dishes.**

Ground-based direct broadcast satellite dishes shall be considered accessory structures and shall not be placed within a road right-of-way. Ground-based direct broadcast satellite dishes greater than one meter (39.37 inches) in diameter shall be placed in a side or rear yard only and shall be a minimum of fifteen (15) feet from all property lines.

**Sec. 4.27. Zoning of non-subdivided property.**

A non-subdivided lot under single ownership may have more than one (1) zoning district applicable to said lot, provided that the following conditions are met:

1. No zoning districts can overlap.
2. In addition to required buffers and setbacks from the property lines additional buffer and setbacks and other development standards shall be required from the zoning district line pursuant to the development standards for all adjacent zoning districts, as if said zoning district line is a property line, and said lot be in compliance with said development standards.
3. Prior to any building permits being issued the lot must be subdivided in accordance to the requirement of the City of Cleveland Code of Ordinances including the City Development Regulations.
4. All property regardless of zoning must have the required minimum frontage pursuant to the requirements of each zoning district which affects any lot.

## ARTICLE V. AGRICULTURAL DISTRICT REGULATIONS

### Sec. 5.1. AG Agricultural district.

5.1.1. *AG district scope and intent.* Regulations set forth in this section are the AG district regulations. The AG district is intended to encompass lands devoted to a wide range of agricultural and closely related uses as further described in section 3.1.1 of this chapter.

5.1.2. *Use regulations.* Within the AG district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Agriculture uses including the production of field crops, fruits, nuts, vegetables, forestry products and animal grazing. Heavy commercial agricultural operations and uses such as feedlots and swine and poultry raising and similar uses are not permitted.
- Farm structures, including barns, grain storage facilities, implement sheds and other structures accessory to agricultural uses are allowed meeting required setbacks from all property lines.
- Residences, single-family detached, provided that such dwelling is farm related and subordinate to the principal use of the property for agricultural uses or for intra-family uses.
- Residences, manufactured homes (class II), provided that such dwelling is farm related and subordinate to the principal use of the property for agricultural uses or for intra-family uses.
- Bed and breakfast inn
- Community fairs.
- Dairy farming.
- Farm Wineries, tasting rooms and associated dining facilities
- Greenhouses and aqua-culture.
- Guest houses
- Home occupations.
- Horticulture.
- Hospital or clinic, animal.
- Animal grooming and temporary boarding
- Parks, private.
- Plant nurseries.
- Public utility facilities.
- Radio, television and communication towers.
- Religious institutions
- Riding stables.
- Roadside stands (produce sales).
- Vacation rental follow all city short-term rental code requirements.
- Agri-tourism, heritage tourism, wedding tourism facilities, and attractions with required driveway access improvements, parking facilities, utility improvement and provided that all structures and activity areas are buffered and located a minimum of one hundred (100) feet from the boundary of any other land use district.
- Farm Distilleries and breweries, tasting rooms and associated dining facilities (C)\* Conditional Use required.

B. *Accessory uses.* A building or land may be used for uses customarily incidental to any permitted use.

5.1.3. *Development standards.*

A. *Height regulations.* No buildings or structures (except silos, granaries, windmills, barns, commercial antennas or towers, amateur radio antennas, or other structures related to the operation of an agricultural

enterprise) may exceed a height of thirty-five (35) feet or two and one-half (2 1/2) stories, whichever is higher.

- B. *Front yard setback*, 40 feet.
- C. *Side yard setback*, 25 feet.
- D. *Rear yard setback*, 40 feet.
- E. *Minimum development area*, 10 acres.
- F. *Minimum lot width at the building line*, 100 feet.
- G. *Minimum lot frontage*, 35 feet adjoining a street.
- H. *Minimum heated floor area*, 1,100 square feet for single-family detached dwellings.
- I. *Manufactured housing requirements*
  - 1. *All dwellings units shall meet the current requirements of the US HUD regulations.*
  - 2. *All dwellings shall be firmly attached to a permanent, continuous foundation around the entire perimeter of the of the dwelling so as to be watertight as required by the construction code.*
  - 3. *The wheels, pulling mechanism and tongue shall be removed prior to placement*
  - 4. *All dwelling shall have a minimum roof pitch of 3/12 and shall have a minimum roof overhang of twelve inches.*
  - 5. *All dwellings shall provide a minimum of two (2) points of ingress and egress*
- J. *Accessory use, building and structure requirements.* Accessory uses, buildings, and structures which are not intended for use or used for the agricultural operation are subordinate to the residential dwelling shall be located in a side or rear yard and shall meet the required setbacks of the district.
- K. *Other required standards.*
  - 1. *Buildings and structures.* Buildings and structures which are intended for use or used for the housing or shelter of farm animals, and silos, granaries, windmills, barns, and similar structures which are related to the operation of an agricultural enterprise shall observe a minimum setback of one hundred (100) feet from any property line.
  - 2. *Veterinary hospital or clinic.* All structures and outdoor activity areas associated with a kennel, veterinary hospital, or clinic shall be a minimum of one hundred (100) feet from any property zoned or used for residential purposes.
  - 3. *Riding stables:* If such use adjoins a residential district, all stable structures shall be a minimum of two hundred (200) feet from any residence on an adjoining property. Such stables shall be a minimum of one hundred (100) feet from all property lines.

## ARTICLE VI. SINGLE-FAMILY DWELLING DISTRICT REGULATIONS

### Sec. 6.1. R-1 Single-family dwelling district.

6.1.1. *R-1 District scope and intent.* Regulations set forth in this section are the R-1 district regulations. The R-1 district encompasses lands devoted to low density residential areas and closely related uses as further described in section 3.1.2 of this chapter.

6.1.2. *Use regulations.* Within the R-1 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Accessory buildings or uses.
- Accessory apartments (CU)\*
- Amenities (as defined by this chapter).
- Bed and breakfast inn and vacation rental
- Day care facilities, in home. (CU).\*
- Family day care. (CU)\*
- Guest house. (CU)\*
- Home occupations.
- Parks, private.
- Public utility facilities.
- Religious institutions (CU).\*
- Schools, private (CU).\*
- Single-family detached dwellings.

\*Conditional use approval required.

6.1.3. *Development standards.*

A. *Height regulations.* Buildings shall not exceed a height of thirty-five (35) feet.

B. *Front yard setback,* 40 feet.

C. *Side yard setback,* 15 feet.

D. *Rear yard setback,* 25 feet.

E. *Minimum lot area.* 15,000 square feet.

F. *Minimum lot width at the building line on non-cul-de-sac lots,* 100 feet.

G. *Minimum lot frontage.* 25 feet adjoining a street.

H. *Minimum heated floor area,* 1,150 square feet.

I. *Accessory use, building, and structure requirements.*

J. *Accessory Apartment and Guest house.* In addition to standards required in this chapter, the following standards shall be met for an accessory apartment or guest house:

1. No more than one (1) accessory apartment or guest house structure per lot.
2. A minimum lot size of twenty thousand (20,000) square feet shall be required.
3. A guest house shall be temporarily occupied by relatives or guests only.
4. Heated floor area shall not exceed fifty (50) percent of the heated floor area of the principle building.
5. A guest house structure shall comply with the principle setbacks of the district.
6. A guest house shall not be allowed in the front yard.
7. A guest house shall not exceed the height of the principle building on the lot.
8. Requires owner-occupancy of the principle building on the lot.



## Sec. 6.2. R-2 Single-family dwelling district.

6.2.1. *R-2 district scope and intent.* Regulations set forth in this section are the R-2 district regulations. The R-2 district encompasses lands devoted to low density residential areas, group housing settings, and closely related uses as further described in section 3.1.3 of this chapter.

6.2.2. *Use regulations.* Within the R-2 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Accessory buildings or uses.
- Amenities (as defined by this chapter).
- College and universities dormitory housing (CU)\*
- Congregate homes (CU)\*
- Day care facilities (CU).\*
- Family day care (CU)\*
- Group homes (CU) \*
- Guest house, subordinate to group home setting. (CU)\*
- Home occupations.
- Manufactured homes, Class II
- Parks, private.
- Personal care homes and assisted living centers (CU).\*
- Public utility facilities.
- Religious institutions (CU).\*
- Schools, private (CU).\*
- Single-family detached dwellings.
- Vacation rental.

\* Conditional use approval required

\*Special use approval required.

### 6.2.3. *Development standards.*

- A. *Height regulations.* Buildings shall not exceed a height of thirty-five (35) feet.
- B. *Front yard setback,* 40 feet.
- C. *Side yard setback,* 15 feet.
- D. *Rear yard setback,* 25 feet.
- E. *Minimum lot area,* 15,000 square feet for single family detached dwellings or manufactured home; 2 acres all other uses.
- F. *Minimum lot width at the building line on non-cul-de-sac lots,* 100 feet.
- G. *Minimum lot frontage,* 25 feet adjoining a street.
- H. *Minimum heated floor area,* 1,000 square feet single family and accessory uses; 2,500 square feet all other uses
- I. *Accessory use, building, and structure requirements.*
- J. *Manufactured home requirements.*
  - 1. *All dwellings units shall meet the current requirements of the US HUD regulations.*
  - 2. *All dwellings shall be firmly attached to a permanent, continuous foundation around the entire perimeter of the of the dwelling so as to be watertight as required by the construction code.*
  - 3. *The wheels, pulling mechanism and tongue shall be removed prior to placement*
  - 4. *All dwelling shall have a minimum roof pitch of 3/12 and shall have a minimum roof overhang of twelve inches.*
  - 5. *All dwellings shall provide a minimum of two (2) points of ingress and egress.*
- K. *Guest house.* In addition to standards required in this chapter, the following standards shall be met for

a guest house:

1. No more than one (1) accessory apartment or guest house structure per lot.
2. A guest house shall be occupied by relatives, employees that work on the property, or guests only.
3. Heated floor area shall not exceed fifty (50) percent of the heated floor area of the principle building.
4. A guest house structure shall comply with the principle setbacks of the district.
5. A guest house shall not be allowed in the front yard.
6. A guest house shall not exceed the height of the principle building on the lot.
7. Requires owner-occupancy of the principle building on the lot.

### **Sec. 6.3. R-3 Single-family dwelling district.**

**6.3.1 R-3 district scope and intent.** Regulations in this section are the R-3 district regulations. The R-3 district identifies land areas for a variety of housing types in a single-family use within a planned community setting as further described in section 3.1.4 of this chapter. The R-3 district is intended to:

- A. Encourage the development of higher density, fee simple, planned communities;
- B. Encourage flexible and creative concepts in site planning;
- C. Preserve the natural amenities of the land by encouraging scenic and functional open space areas;
- D. Provide for an efficient use of land; and
- E. Provide a stable residential environment compatible with surrounding residential areas.

**6.3.2 Use regulations.** Within the R-3 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

- *Permitted uses.* Structures and land may be used for only the following purposes:
- Accessory buildings or uses.
- Amenities.
- Bed and breakfast inn and vacation rental
- Condominiums
- Clustered cottage detached dwellings
- Day care facilities, in home. (CU).\*
- Duplex dwellings
- Family day care. (CU)\*
- Home office occupations.
- Parks, private.
- Public utility facilities.
- Row houses
- Single-family attached, semi-detached, and detached dwellings.
- Town houses

\*Conditional use approval required.

**6.3.3 Master plan.** A preliminary master plan of the development shall be submitted to the zoning administrator at the time of filing for rezoning to the R-3 zoning district. The preliminary master plan shall contain a list of the proposed uses. Any use not specifically designated as a permitted use shall be prohibited. Said plan shall be prepared by an architect, landscape architect, engineer, or land surveyor whose state registration is current and valid and the plan shall exhibit such seal or other to validate such. The master plan shall include an analysis on traffic impacts, utility infrastructure and city services, community access and pedestrian connectivity.

6.3.4 *Use regulations.* Within the R-3 district, land and structures shall be used in accordance with the list of proposed uses as submitted in the master plan. Any use not specifically designated as a permitted use shall be prohibited.

6.3.5 *Development standards.*

- A. *Height regulations.* Single-family residential buildings shall not exceed a height of thirty-five (35) feet.
- B. *Minimum lot area per dwelling unit.*
- As specified in conditions of zoning in master plan.
  - Townhouse, Rowhouse attached, 2,200 sq. ft.
- C. *Maximum density*
- Condominium 8 units per gross acre.
  - All other uses, 8 units per gross acre
- D. *Minimum heated floor area per unit.*
- Condominium
    - 3-bedroom, 1,200 sq. ft.
    - 2-bedroom, 950 sq. ft.
    - 1-bedroom, 800 sq. ft.
    - Studio/loft (in existing buildings), 675 sq. ft.
  - Townhouse, Rowhouse attached
    - 1,100 sq. ft., not including garage
  - Clustered cottage detached dwellings
    - 1,000 sq. ft. heated, minimum 2 acre development 6 units/acre density, 20 percent open or green space (not including setbacks).
- E. *Minimum lot width.* As specified in conditions of zoning in master plan.
- F. *Minimum R-3 development frontage,* 60 feet
- G. *Minimum lot frontage.* As specified in conditions of zoning.
- H. *Perimeter setback entire R-3 development.* As specified in conditions of zoning in master plan.
- I. *Interior setbacks.* As specified in conditions of zoning in master plan.
- J. *Minimum lot area.* 15,000 square feet, single family homes
- K. *Minimum heated floor area.* 1,150 square feet, single family homes.
- L. *Accessory structure requirements.*
- M. *Minimum building separation.*
1. Front to front, 50 feet.
  2. Front or rear to side, 50 feet.
  3. Side to side, 20 feet.
- N. *Minimum buffer requirements.* As specified in conditions of zoning in master plan.
- O. *Minimum open space requirements.* As specified in conditions of zoning in master plan.  
Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping.
- P. The front building façade of all principle non-residential buildings shall be oriented toward street fronts or adjacent arterial street fronts.

## **ARTICLE VII. MULTI-FAMILY DWELLING DISTRICT REGULATIONS**

### **Sec. 7.1. R-4 Multi-family dwelling district.**

7.1.1. *R-4 district scope and intent.* Regulations set forth in this section are the R-4 district regulations. The R-4 district is intended to provide land areas for high density apartment dwellings as further described in section 3.1.5 of this chapter which will:

- A. Encourage attractive apartment development;

- B. Encourage the provision of recreation areas and facilities;
- C. Be located in areas of intense development near or adjacent to downtown, major retail shopping, employment centers, arterial, and major collector streets; and
- D. Be located so as to provide a transition between medium to high density residential areas and non-residential areas.

7.1.2. *Use regulations.* Within the R-4 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Accessory buildings and uses.
- Amenities.
- Apartments..
- Clubs or lodges (non-commercial) (CU).\*
- College and universities dormitory housing (CU)\*
- Condominium dwellings.
- Day care facilities (CU).\*
- Duplex dwellings.
- Family day care.(CU) \*
- Group homes (SU).\*
- Home office occupations.
- Parks, private.
- Personal care homes (SU).\*
- Public utility facilities.
- Religious institutions (CU).\*
- Recreation and health centers.
- Retirement centers (CU).\*
- Schools, private (CU).\*

\*Conditional use approval required

\*Special use approval required.

7.1.3. *Development standards.*

- A. *Height regulations.* Buildings shall not exceed a height of fifty (50) feet.
- B. *Front yard setback,* 40 feet
- C. *Side yard setback,* 25 feet (adjacent to interior lot line or street).
- D. *Rear yard setback,* 25 feet.
- E. *Minimum lot width,* 100 feet (throughout depth from front to rear lot line). *Minimum lot frontage,* 100 feet adjoining a street.
- F. *Maximum density,* 10 units per gross acre
- G. Minimum lot area, 5 acres.
- H. *Minimum heated floor area per unit.*
  - *3-bedroom and duplex dwellings,* 1,000 sq. ft.
  - *2-bedroom,* 850 sq. ft.
  - *1-bedroom,* 700 sq. ft.
  - *Studio/loft (in existing buildings),* 650 sq. ft.
- I. *Accessory use, building and structure requirements.*
- J. *Minimum building separation.* The minimum distances between buildings shall be as follows:
  1. *Front to front,* 50 feet.
  2. *Front or rear to side,* 50 feet.
  3. *Side to side,* 20 feet.
- K. *Minimum buffer requirements.* In addition to required setbacks, a twenty-five (25) foot wide screened buffer shall be required along all property lines which abut a single-family district or a ten (10) foot screened

buffer adjacent to all other districts.

L. *Minimum open space requirements.* Twenty percent (20%) of gross acreage shall be set aside as open space and provisions shall be made for common areas within said open space for the use of residents of the development. Streets, parking areas, required yards, and required buffer zones shall not be counted as part of the minimum open space. Such area may serve as passive areas and/or developed for recreational purposes such as pools, playground equipment, walking trails, or basketball and tennis courts.

M. Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.

N. *Other required standards.*

1. Principle structures within the R-4 district shall have a minimum of fifty percent (50%) finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.

O. Refuse areas (dumpsters) shall be placed in the least visible location from public streets and shall be covered and enclosed on three sides with opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.

Q. Light fixture poles cannot exceed forty (40) feet in height. All site lighting shall be directed onto the site.

R. Chain link fences are not allowed in the front yards. Where allowed, all chain link fences shall not be taller than five (5) feet in height and shall be vinyl coated, with one of the following colors: hunter green or black.

S. *Building massing.* Street fronting building facades greater than one hundred fifty (150) feet in length shall be modulated with breaks in wall surfaces and materials at intervals not to exceed one hundred fifty (150) feet, measured parallel to the street. For buildings that are three stories or less in height, each floor shall be delineated through windows, belt courses, cornices lines, or similar architectural detailing.

T. *Color.* Fluorescent colors shall not be employed except as accent colors.

U. *Other required standards.*

1. All multi-family units shall have a minimum of fifty percent (50%) finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.
2. Landscape Plan
3. Fire/Life Safety Requirements

V. An analysis on traffic impacts, utility infrastructure and city services, community access and pedestrian connectivity, and schools shall be provided in the application.

## ARTICLE VIII. PLANNED DEVELOPMENT DISTRICT REGULATIONS

### Sec. 8.1. PR-D Planned Development district.

8.1.1. *PR-D District scope and intent.* Regulations in this section are the PR-D district regulations. The PR-D district identifies land areas for a variety of housing types in a multiple use district of offices and commercial services within a planned community setting as further described in section 3.1.6 of this chapter. The PR-D district is intended to:

- A. Encourage the development of large tracts of land as planned communities;
- B. Encourage flexible and creative concepts in site planning;
- C. Preserve the natural amenities of the land by encouraging scenic and functional open space areas;
- D. Provide for an efficient use of land; and
- E. Provide a stable residential environment compatible with surrounding residential areas.

8.1.2. *Master plan.* A preliminary master plan of the planned development shall be submitted to the zoning administrator at the time of filing for rezoning to the PR-D zoning district. The preliminary master plan shall contain a list of the proposed uses. Any use not specifically designated as a permitted use shall be prohibited. The plan shall represent an overall land use concept which is in keeping with the spirit and intent of the PR-D district as described in subsection 3.1.6 of this article. Said plan shall be prepared by an architect, landscape architect, engineer, or land surveyor whose state registration is current and valid and the plan shall exhibit such seal or other to validate such. The plan shall become a condition of the rezoning and any variations to said plan after rezoning approval that would increase the area of a specific land use proposed in the development shall require approval of the Planning Commission and City Council.

8.1.3. *Use regulations.* Within the PR-D district, land and structures shall be used in accordance with the list of proposed uses as submitted in the master plan. Any use not specifically designated as a permitted use shall be prohibited.

#### 8.1.4. *Development standards.*

- A. *Height regulations.* Single-family residential buildings shall not exceed a height of fifty (50) feet.
- B. *Minimum lot area per dwelling unit.*
  - a. Single-family detached. As specified in conditions of zoning.
  - b. Townhouse/attached, 2,000 sq. ft.
- C. *Maximum density*
  - a. Multi-family, 10 units per gross acre.
  - b. Townhouse/attached, 8 units per gross acre
- D. *Minimum heated floor area per unit.*
  - a. Multi-family
    - i. 3-bedroom, 1,000 sq. ft.
    - ii. 2-bedroom, 850 sq. ft.
    - iii. 1-bedroom, 700 sq. ft.
    - iv. Studio/loft (in existing buildings), 650 sq. ft.
  - b. Townhouse/attached
    - o 1,200 sq. ft.
- E. *Minimum lot width.* As specified in conditions of zoning.
- F. *Minimum PR-D development frontage,* 60 feet
- G. *Minimum lot frontage.* As specified in conditions of zoning.
- H. The use of metal panels or metal sheathing and/or standard gray concrete block on the exterior walls of any building or structure shall be prohibited with the exception that such materials may be used if finished with a product consisting of brick, stone, hard-coat stucco, or fiber cement siding.

- I. Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.
- J. *Perimeter setback entire PR-D development.* As specified in conditions of zoning.
- K. *Interior setbacks.* As specified in conditions of zoning.
- L. *Accessory structure requirements.*
- M. *Minimum building separation multi-family.*
  - 4. Front to front, 50 feet.
  - 5. Front or rear to side, 50 feet.
  - 6. Side to side, 20 feet.
- N. *Minimum buffer requirements.* As specified in conditions of zoning.
- O. *Minimum open space requirements.* As specified in conditions of zoning.
- P. Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multi-family and non-residential properties.
- Q. The front building façade of all principle non-residential buildings shall be oriented toward street fronts or adjacent arterial street fronts.
- R. Refuse areas (dumpsters) shall be placed in the least visible location from public streets, and shall be covered and enclosed on three sides with opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.
- S. Light fixture poles cannot exceed forty (40) feet in height. All site lighting shall be directed onto the site.
- T. Chain link fences are not allowed in the front yards. Where allowed, all chain link fences shall not be taller than five (5) feet in height and shall be vinyl coated, with one of the following colors: hunter green or black.
- U. *Building massing.* Street fronting building facades greater than one hundred fifty (150) feet in length shall be modulated with breaks in wall surfaces and materials at intervals not to exceed one hundred fifty (150) feet, measured parallel to the street. For buildings that are three stories or less in height, each floor shall be delineated through windows, belt courses, cornices lines, or similar architectural detailing.
- V. *Color:* Fluorescent colors shall not be employed except as accent colors.
- W. *Other required standards.*
  - 1. The number of multi-family units shall not exceed thirty-five percent (35%) of the total number of dwelling units in a PR-D.
  - 2. All multi-family units shall have a minimum of fifty percent (50%) finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.
  - 3. The number of single-family detached residential lots consisting of less than eight thousand (8,000) square feet in lot area shall be as specified in conditions of zoning.
  - 4. A traffic impact study shall be included in the master plan.
  - 5. An analysis on impacts of utility infrastructure and city services, community access and pedestrian connectivity, and schools shall be provided in the master plan.

8.1.5. *Commercial requirements.* The headings below contain additional provisions applicable to the PR-D district.

- 1. *Commercial uses in the PR-D district shall not exceed twenty (20) percent of the total development.*
- 2. *Architecture for commercial uses shall complement the design of the residential uses in the proposed development plan.*
- 3. *Commercial uses shall be located at the street level.*
- 4. *The master plan shall provide pedestrian connectivity between the residential and commercial uses.*
- 5. Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping.
- 6. The front building façade of all principle buildings shall be oriented toward street

- fronts or adjacent arterial street fronts.
7. Refuse areas (dumpsters) shall be placed in the least visible location from public streets, and shall be covered and enclosed on three sides with opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.
  8. Light fixture poles cannot exceed forty (40) feet in height. All site lighting shall be directed onto the site.
  9. Commercial signage shall comply with the city sign ordinance.

The uses (project) granted under the approved plan shall commence operations or construction within 18 months of the date of approval by the City Council. If, at the end of this 18-month period, the Planning Director determines that active efforts are not proceeding toward operation or construction, a report may be forwarded to the City Council through the Planning and Zoning Board which may recommend that action be taken to return the property(ies) to the original zoning, following all required amendment procedures found in this chapter of the code.

### **Sec. 8.2. PC-D Planned Commercial Development district.**

8.2.1. Regulations in this section are the PC-D district regulations. The P-D district identifies land areas for a variety of commercial types within a planned design as further described in section 3.1.7 of this chapter. The PC-D district is intended to:

- A. Encourage new development of greenfield, brownfield, and other infill areas for planned designs;
- B. Encourage redevelopment of existing commercial sites for their highest and best use;
- B. Encourage flexible and creative concepts in site planning;
- C. Encourage functional open space areas to improve both the site and the community in general;
- D. Provide for an efficient use of land; and
- E. Provide a stable commercial environment compatible with surrounding residential areas.

The purpose of this district is to provide suitable areas for development and redevelopment of commercial properties with the flexibility to allow a full range of uses and designs for retail centers, outparcels, infill buildings, and open space.

8.2.2. *Master plan.* A preliminary master plan of the planned commercial development shall be submitted to the department of planning and development at the time of filing for rezoning to the PC-D district. The preliminary master plan shall contain a list of permitted uses, setbacks, and other information as required by the zoning administrator. Any use not specifically designated as a permitted use shall be prohibited. Said plan shall be prepared by an architect, landscape architect, engineer, and/or land surveyor whose state registration is current and valid and the plan shall exhibit such seal or other to validate such. The plan shall become a condition of the rezoning.

8.2.3. *Use regulations.* Within the PC-D district, land and structures shall be used in accordance with the list of proposed uses as submitted in the master plan. Any use not specifically designated as a permitted use shall be prohibited.

#### *8.2.4. Development standards.*

- A. *Height regulations.* Buildings shall not exceed a height of fifty (50) feet.
- B. *Minimum lot width.* As specified in conditions of zoning.
- C. *Minimum development frontage,* 60 feet.
- D. *Minimum lot frontage.* As specified in conditions of zoning.
- E. *Minimum perimeter setback of entire development.* As specified in conditions of zoning.
- F. *Minimum interior setbacks.* As specified in conditions of zoning.
- G. *Accessory structure requirements.*



H. The use of metal panels or metal sheathing and/or standard gray concrete block on the exterior walls of any building or structure shall be prohibited with the exception that such materials may be used if finished with a product consisting of brick, stone, or hard-coat stucco.

I. Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.

J. *Minimum buffer requirements.* In addition to required setbacks, all uses within the PC-D district which abut a single-family residential district or use shall provide a minimum thirty (30) foot wide buffer, five (5) feet of which can be within required setback, to provide a visual screen.

K. Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multi-family and non-residential properties.

L. The front building façade of all principle buildings shall be oriented toward street fronts or adjacent arterial street fronts.

M. Refuse areas (dumpsters) shall be placed in the least visible location from public streets, and shall be covered and enclosed on three sides with opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.

N. Light fixture poles cannot exceed forty (40) feet in height. All site lighting shall be directed onto the site.

O. Chain link fences are not allowed in the front yards. Where allowed, all chain link fences shall not be taller than five (5) feet in height and shall be vinyl coated, with one of the following colors: hunter green or black.

P. *Building massing.* Street fronting building facades greater than one hundred fifty (150) feet in length shall be modulated with breaks in wall surfaces and materials at intervals not to exceed one hundred fifty (150) feet, measured parallel to the street. For buildings that are three stories or less in height, each floor shall be delineated through windows, belt courses, cornices lines, or similar architectural detailing.

Q. *Color.* Fluorescent colors shall not be employed except as accent colors.

R. *Traffic impact study.* Shall be included in the master plan.

S. An analysis on impacts of utility infrastructure and city services, community access and pedestrian connectivity shall be provided in the master plan.

8.2.5. *Other regulations.* The headings below contain additional, but not necessarily all, provisions applicable to the PC-D district.

1. *Residential uses shall not exceed twenty (20) percent of the total development.*
2. *Residential uses shall be located as loft or above commercial uses.*
3. *City of Cleveland Landscaping Ordinance.*
4. *City of Cleveland Sign Ordinance.*

The uses (project) granted under the approved plan shall commence operations or construction within 18 months of the date of approval by the City Council. If, at the end of this 18-month period, the Planning Director determines that active efforts are not proceeding toward operation or construction, a report may be forwarded to the City Council through the Planning and Zoning Board which may recommend that action be taken to return the property(ies) to the original zoning, following all required amendment procedures found in this chapter of the code.

### **Sec. 8.3. PM-U Multiple Use district.**

8.3.1 *PM-U District scope and intent.* Regulations in this section are the PM-U district regulations. The PM-U district is intended to provide land areas for medium to high density residential land uses and commercial uses complimentary to office and institutional uses as further described in section 3.1.8 of this chapter and where existing and projected traffic patterns encourage such development. The PM-U district is intended to:

- A. Encourage the development of tracts of land in the community;
- B. Encourage flexible, innovative, and creative concepts in site planning;

- C. Encourage efficient use of land;
- D. Provide a stable multiple use environment compatible with surrounding uses; and
- E. Protect neighboring residential properties by locating less intense uses adjacent to residential developments or by locating buffers between non-residential and residential uses.

8.3.2 *Master plan.* A preliminary master plan of the planned commercial development shall be submitted to the department of planning and development at the time of filing for rezoning to the PM-U district. The preliminary master plan shall contain a list of permitted uses, setbacks, and other information as required by the zoning administrator. Any use not specifically designated as a permitted use shall be prohibited. Said plan shall be prepared by an architect, landscape architect, engineer, and/or land surveyor whose state registration is current and valid and the plan shall exhibit such seal or other to validate such. The plan shall become a condition of the rezoning.

8.3.3 *Use regulations.* Within the PM-U district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Accessory apartments (CU).\*
- Amateur radio transmitter.
- Amenities.
- Amusement, indoor.
- Apartments and condominiums, above, below, or behind commercial uses in the same building (CU).\*
- Art galleries.
- Assembly halls.
- Automotive and light truck rental facility.
- Automotive specialty shops (allowed on properties fronting an arterial or major collector street only and shall be limited to four (4) bays).
- Barber shops.
- Beauty salons.
- Bed and breakfast inn (CU).\*
- Catering, carry out, delivery.
- Clinics (excludes veterinary).
- Clubs or lodges (non-commercial) (CU)\*.
- Colleges and universities.
- Community center buildings.
- Condominiums.
- Construction contractors:
  - *General building contractors* (provided there is no exterior storage of equipment, materials, and construction vehicles)
  - *Heavy equipment contractors* (provided there is no exterior storage of equipment, materials, and construction vehicles)
  - *Special trade contractors*; including but not limited to, construction subcontractors, engineers, architects, and land surveyors (provided there is no exterior storage of equipment, materials, or construction vehicles).
- Convenience stores.
- Dancing schools.
- Day care facilities.
- Delicatessens.
- Dry cleaners.
- Duplex dwellings.

- Family day care.
- Financial establishments.
- Funeral homes (allowed on properties fronting an arterial or major collector street only) (crematories may be allowed in conjunction with funeral home with approval of special use).\*
- Group homes (SU).\*
- Guest house.
- Gymnasiums/health clubs.
- Home occupations.
- Hospices (SU).\*
- Hotels (allowed on properties fronting an arterial or major collector street only).
- Institutions of higher learning, including business colleges, music conservatories, and similar institutions.
- Laboratories (medical and dental).
- Laundromats.
- Libraries.
- Medical offices (excludes veterinary).
- Multi-family dwellings.
- Museums.
- Nursing home facilities and assisted living facilities.
- Offices, general.
- Parking lots.
- Parks, private.
- Patio homes.
- Pawn shops and/or title pawn (SU).\*
- Pet grooming.
- Personal care homes (SU).\*
- Places of assembly (SU).\*
- Printing establishments.
- Pubs, taverns (and winery tasting rooms).
- Public utility facilities.
- Radio and television broadcast stations.
- Radio, television, or other communication towers.
- Religious institutions (CU).\*
- Repair services, light (shoes, small appliances or similar).
- Restaurants (drive-thru restaurants as CU).\*
- Retail, general.
- Retail package stores (malt beverages and/or wine sales only in a multi-tenant shopping center development consisting of a minimum of five (5) business suites and additionally, that detached, stand alone, retail package stores shall not be permitted.)
- Retirement centers (CU).\*
- Reupholstery shops.
- Schools, private (CU).\*
- Service stations (allowed on properties fronting an arterial or major collector street only).
- Single-family attached dwellings.
- Single-family detached dwellings.
- Stadiums (allowed on properties fronting an arterial or major collector street only).
- Storage, warehouse (allowed on properties fronting an arterial or major collector street only).
- Theaters.
- Townhouses.
- Wholesale sales office.

\*Conditional use approval required;

\*Special use approval required.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

#### 8.3.4 *Development standards.*

A. Height regulations. Single-family residential buildings shall not exceed a height of thirty-five (35) feet; multi-family and non-residential buildings shall not exceed a height of fifty (50) feet.

B. *Front yard setback*, 40 feet.

C. *Side yard setback*, 15 feet.

- If single-family attached, 20 ft. end of each row

D. *Rear yard setback:*

- Office/institutional/commercial, 25 feet.
- Multi-family, 25 feet.
- Townhouse, 25 feet.
- Single-family attached, 25 feet.
- Single-family detached, 25 feet.
- Duplex dwellings, 25 feet.

E. Minimum lot area.

- Townhouse/attached, 2000 sq. ft.
- Single-family detached and duplex dwellings, 8000 sq. ft.

F. *Maximum density.*

- Multi-family, 10 dwelling units per acre
- Townhouse/attached, 8 dwelling units per acre

G. *Minimum lot width at building line.*

- Office/institutional/commercial, 110 feet per lot
- Multi-family, 110 feet.
- Townhouse, 20 feet per lot.
- Single-family attached, 50 feet per lot.
- Single-family detached, 60 feet per lot.
- Duplex dwellings, 50 feet per lot.

H. *Minimum lot frontage.*

- Office/institutional/commercial, 110 feet per lot
- Multi-family, 110 feet per lot.
- Townhouse, 20 feet per lot.
- Single-family attached, 50 feet per lot.
- Single-family detached, 60 feet per lot.
- Duplex dwellings, 35 feet per lot.

I. *Minimum heated floor area per dwelling unit.*

- Multi-family
  - 3-bedroom, 1,000 sq. ft.
  - 2-bedroom, 850 sq. ft.
  - 1-bedroom, 700 sq. ft.
  - Studio/loft (in existing buildings), 650 sq. ft.
- Townhouse/attached, 1,150 sq.ft.
- Single-family detached, 1,100 sq. ft.
- Duplex, 1,500 sq. ft.

J. The use of metal panels or metal sheathing and/or standard gray concrete block on the exterior walls of any building or structure shall be prohibited with the exception that such materials may be used if finished with a product consisting of brick, stone, hard-coat stucco, or fiber cement siding.

K. Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multi-family and non-residential properties.

L. Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.

M. The front building façade of all principle buildings shall be oriented toward street fronts or adjacent arterial street fronts.

N. *Minimum buffer requirements.* In addition to required setbacks, all non-residential and/or multi-family property uses within the PM-U district which abut a single-family residential district or use shall provide a minimum thirty (30) foot wide buffer, five (5) feet of which can be within required setback, to provide a visual screen.

O. *Minimum open space.* Multi-family developments shall have a minimum twenty percent (20%) of gross acreage set aside as open space and shall provide recreational areas within said open space.

P. *Maximum commercial building floor area,* twenty thousand (20,000) square feet.

Q. *Traffic impact study.* Shall be included in the master plan.

R. An analysis on impacts of utility infrastructure and city services, community access and pedestrian connectivity shall be provided in the master plan

S. *Accessory structure requirements.*

T. *Other standards.*

1. Townhouse developments shall have a minimum development area of one-half (1/2) acre. In addition to required setbacks, a fifteen (15) foot wide buffer is required along all property lines which abut a single-family district or use to provide a visual screen in accordance with section 4.17 of this chapter.

2. Multi-family developments shall comply with section 7.1.3.K. and N. of this chapter.

U. *Guest house.* In addition to standards required in this chapter, the following standards shall be met for a guest house:

1. No more than one (1) guest house structure per lot.

2. A minimum lot size of twenty thousand (20,000) square feet shall be required.

3. A guest house shall be occupied by relatives, employees that work on the property, or guests only.

4. Heated floor area shall not exceed fifty (50) percent of the heated floor area of the principle building.

5. A guest house structure shall comply with the principle setbacks of the district.

6. A guest house shall not be allowed in the front yard.

7. A guest house shall not exceed the height of the principle building on the lot.

8. Requires owner-occupancy of the principle building on the lot.

8.3.5 *Other regulations.* The headings below contain additional, but not necessarily all, provisions applicable to the PM-U district.

- *City of Cleveland Landscaping Ordinance.*
- *City of Cleveland Sign Ordinance.*

The uses (project) granted under the approved plan shall commence operations or construction within 18 months of the date of approval by the City Council. If, at the end of this 18-month period, the Planning Director determines that active efforts are not proceeding toward operation or construction, a report may be forwarded to the City Council through the Planning and Zoning Board which may recommend that action be taken to return the property(ies) to the original zoning, following all required amendment procedures found in this chapter of the code.

## ARTICLE IX. COMMERCIAL DISTRICT REGULATIONS

### Sec. 9.1. B-1, CBD Central (Downtown) Business District.

9.1.1 *CBD District scope and intent.* Regulations set forth in this section are the CBD district regulations. The CBD district is intended to provide locations in which neighborhood and community-oriented retail and service activities and residential uses can be established in the downtown business sector of the City as further described in section 3.1.9 of this chapter while preserving the historic character of the downtown buildings.

9.1.2 *Use regulations.* Within the CBD district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Amateur radio transmitter (CU)\*
- Amenities.
- Amusement, indoor.
- Apartments and condominiums, above, below, or behind commercial uses in the same building.
- Art galleries.
- Assembly halls.
- Barber shops.
- Beauty salons.
- Bed and breakfast inn. (CU)\*
- Catering, carry-out and delivery.
- Clinics (excludes veterinary clinic). (CU)\*
- Clubs or lodges (non-commercial) (CU).\*
- Condominium dwellings. (CU)\*
- Construction contractors:
  - *General building contractors* (provided there is no exterior storage of equipment, materials, and construction vehicles).
  - *Heavy equipment contractors* (provided there is no exterior storage of equipment, materials, and construction vehicles).
  - *Special trade contractors*; including but not limited to, construction subcontractors, engineers, architects, and land surveyors (provided there is no exterior storage of equipment, materials, or construction vehicles).
- Day care facilities.
- Delicatessens.
- Financial establishments.
- Gymnasiums/Health clubs.
- Hotels.
- Laundromats.
- Laundry and dry cleaning pick-up stations.
- Libraries.
- Medical offices (excludes veterinary).
- Museums.
- Offices, general.
- Parking lots, including decks (CU)\*.
- Parks, public and private.
- Personal services.
- Places of assembly (CU).\*
- Printing shops, convenience.

- Public utility facilities.
- Pubs and taverns (and winery tasting rooms).
- Religious institutions (CU).\*
- Repair shops (small appliance, shoe repair or similar).
- Restaurants (drive-thru restaurants as a conditional use), dine-in, catering carry-out and delivery.
- Retail, general.
- Retirement centers (CU).\*
- Schools, private (SU).\*
- Schools of business, dance, music, or similar.
- Short-term or vacation rental (CU)\*
- Single-family residential in semi-detached or clustered cottages; 8 units/acre.
- Theaters.
- Townhouse (CU).\*

\*Conditional use approval required

\*Special use approval required.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use.

9.1.3 *Development standards.* (In some cases a master plan may be required to determine development standards.

A. *Height regulations.* Buildings shall not exceed a height of sixty (60) feet.

B. *Front yard setback,* None.

C. *Side yard setback,* None.

D. *Rear yard setback,* None.

E. *Minimum lot frontage,* None.

F. *Minimum heated floor area per dwelling unit.*

- Multi-family
  - 3-bedroom, 1,000 sq. ft.
  - 2-bedroom, 850 sq. ft.
  - 1-bedroom, 700 sq. ft.
  - Studio/loft (in existing buildings), 650 sq. ft.
- Townhouse/attached, 1,150 sq.ft.

G. *Accessory structure requirements.*

H. The use of metal panels or metal sheathing and/or standard gray concrete block on the exterior walls of any building or structure shall be prohibited with the exception that such materials may be used if finished with a product consisting of brick, stone, or hard-coat stucco.

I. Consideration for approval of any commercial and residential living space in the CBD district is subject to a parking plan for the proposed use and approved by the zoning administrator. The zoning administrator shall give due consideration to available public or private parking in the downtown area, however, such parking shall not be presented as the only parking for the proposed use.

J. Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multi-family and non-residential properties.

K. Architectural design shall be respectful and reflective of the historic square setting, facilities for pedestrian movement and connectivity shall be included.

L. Refuse areas (dumpsters) shall be placed in the least visible location from public streets and shall be covered and enclosed on three sides with opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.

M. The front building façade of all principle buildings shall be oriented toward street fronts or adjacent

arterial street fronts.

N. For new or redeveloped structures, an analysis on impacts of utility infrastructure and city services, community access and pedestrian connectivity shall be provided.

9.1.4 *Other regulations.* The headings below contain additional, but not necessarily all provisions applicable to the CBD district.

- *City of Cleveland Landscaping Ordinance.*
- *City of Cleveland Sign Ordinance.*

## **Sec. 9.2. B-2, Highway Commercial district.**

9.2.1.B-2 *District scope and intent.* Regulations set forth in this section are the B-2 district regulations. The B-2 district is intended to provide locations in which community and regionally-oriented retail and service activities can be established so as to best serve the community and traveling public as further described in section 3.1.10 of this chapter.

9.6.2. *Use regulations.* Within the B-2 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Adolescent treatment facilities.
- Amateur radio transmitter.
- Amenities.
- Amusement, indoor.
- Apartments and condominiums, above, below, or behind commercial and office uses in the same building (CU).\*
- Art galleries.
- Automotive garages.
- Automotive and truck sales or rental.
- Automotive specialty shops.
- Automotive storage yards and wrecker service.
- Barber shops and beauty salons.
- Boat sales and service.
- Bowling alleys.
- Building supply companies.
- Bus stations.
- Car washes.
- Catering, carry-out and delivery.
- Cheerleading/Gymnastics facilities and indoor athletic training facilities
- Check cashing stores.
- Clinics.
- Clinic or hospital, animal.
- Clubs or lodges (non-commercial) (CU).\*
- Colleges and universities.
- Construction contractors:
  - *General building contractors* (provided there is no exterior storage of equipment, materials, and construction vehicles).
  - *Heavy equipment contractors* (provided there is no exterior storage of equipment, materials, and construction vehicles).
  - *Special trade contractors*; including but not limited to, construction subcontractors, engineers, architects, and land surveyors (provided there is no exterior storage of equipment, materials, or construction vehicles).



- Consumer fireworks retail sales facility, in accordance with State holiday sales requirements and as approved by the Fire Chief
- Convenience stores.
- Dancing schools.
- Day care facilities.
- Delicatessens.
- Distribution centers, (not including processing, fabrication or manufacturing).
- Drive-in theaters.
- Dry cleaners.
- Farm equipment and supplies stores.
- Financial establishments.
- Fortunetellers.(SU)\*
- Funeral homes (crematories may be allowed in conjunction with a funeral home).
- Gymnasiums/Health clubs.
- Halfway houses. (SU)\*
- Homeless shelters (SU).\*
- Hospices.
- Hospitals.
- Hotels.
- Institutions of higher learning, business colleges, music conservatories, and similar institutions.
- Kennels.
- Laboratories.
- Landscaping businesses.
- Laundromats.
- Laundry/Dry cleaning pick-up stations.
- Libraries.
- Medical offices.
- Manufactured home sales.
- Motels.
- Museums.
- Nursing homes and assisted living facilities.
- Offices, general.
- Office parks.
- Outdoor golf driving ranges.
- Other consumer goods and services.
- Parking garages.
- Parking lots.
- Pawn shops and/or title pawn.
- Pet grooming.
- Personal care homes (CU).\*
- Performing Art Centers (CU)\*
- Places of assembly (CU).\*
- Planned shopping developments.
- Plant nurseries.
- Plumbing shops (associated with retail sales).
- Printing establishments.
- Public utility facilities.
- Pubs or taverns (including winery tasting rooms).
- Radio and television broadcast stations.

- Radio, television, or other communication towers.
- Religious institutions.
- Repair garages, automotive.
- Repair garages, heavy equipment.
- Repair services, heavy (large appliances and similar).
- Research laboratories.
- Restaurants.
- Retail, general.
- Retail package stores (liquor).
- Retirement centers (CU).\*
- Reupholstery and furniture repair shops.
- Schools, private (CU).\*
- Self-service storage facilities (mini-warehouses); 300 ft setback, perimeter screening (CU)\*.
- Service establishments.
- Service stations.
- Skating rinks.
- Stadiums. (SU)\*
- Storage, general.
- Taxi stands.
- Theaters.
- Truck stops. (CU)\*
- Wholesale sales office.
- Wholesale trade and distribution.
- Wildlife conservation park

(CU) \* Conditional use approval required

(SU).\* Special use approval required.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use.

### 9.6.3. *Development standards.*

A. *Height regulations.* Building shall not exceed a height of fifty (50) feet.

B. *Front yard setback,* 60 feet.

C. *Side yard setback,* 15 feet.

D. *Rear yard setback,* 25 feet.

E. *Minimum lot area,* None.

F. *Minimum heated floor area per dwelling unit.*

- *3-bedroom,* 900 sq. ft.
- *2-bedroom,* 750 sq. ft.
- *1-bedroom,* 600 sq. ft.
- *Studio/loft (in existing buildings),* 450 sq. ft.

G. *Minimum buffer requirements.* In addition to required setbacks, a minimum twenty-five (25) foot wide buffer, ten (10) feet of which can be within required setback, shall be required along all property lines which abut a residential district or use to provide a visual screen.

H. *Minimum lot frontage.* 110 feet adjoining a street

I. *Minimum lot width at the building line,* 100 feet.

J. A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the G-C district, unless finished with a product consisting of brick, stone, or hard-coat stucco, with the following exception:

1. The rear wall of a metal building may be allowed to be finished with a metal panel.

K. *Accessory structure requirements.*

L. *Other required standards.*

1. All structures associated with a kennel, or veterinary clinic shall be a minimum of one hundred (100) feet from all property lines which abut a residential district.
2. For new or redeveloped structures, an analysis on impacts of utility infrastructure and city services, schools, community access and pedestrian connectivity shall be provided.

9.6.4. *Other regulations.* The headings below contain additional, but not necessarily all provisions applicable to the B-2 district.

- *City of Cleveland Landscaping Ordinance.*
- *City of Cleveland Sign Ordinance.*

## **ARTICLE X. PUBLIC INSTITUTIONAL DISTRICT**

### **Sec. 10.1. P-I Public/Institutional district.**

10.1.1 *P-I District scope and intent.* The P-I district encompasses lands devoted to uses which may be privately owned or owned by the federal, state or local government or related agencies as further described in section 3.1.11 of this chapter.

10.1.2 *Use regulations.* Within the P-I district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as allowed shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Amateur radio transmitter.
- Cemeteries (human); must include a perpetual care plan.
- Cemeteries (pet).
- Clubs or lodges (non-commercial).
- Colleges and universities.
- Day care facilities.
- Funeral homes (crematories may be allowed in conjunction with a funeral home with approval of a special use).\*
- Governmental buildings.
- Governmental facilities.
- Institutions of higher learning, business colleges, music conservatories, and similar institutions.
- Mausoleums.
- Medical facilities.
- Parks, public or private.
- Performing Arts Centers (CU)\*
- Places of assembly (CU)\*
- Public Utilities
- Radio, television, or other communication towers. (CU)\*
- Recreation centers or facilities.
- Religious institutions.
- Schools, public and private.
- Youth educational camps

10.1.3 *Development standards.*

A. *Height regulations.* Buildings shall not exceed a height of fifty (50) feet.

B. *Minimum development area.*

- 15 acres (cemeteries for humans)

- 5 acres (cemeteries for pets)
  - 50 acres (youth educational camps)
- C. *Front yard setback*
- Structures other than cemeteries, 60 feet.
  - Cemeteries, 80 feet.
- D. *Side yard setback*
- Structures other than cemeteries, 15 feet.
  - Cemeteries, 50 feet.
- E. *Rear yard setback*
- Structures other than cemeteries, 20 feet.
  - Cemeteries, 50 feet.
- F. *Setback for graves*, 50 feet from all property lines.
- G. *Minimum lot frontage*, 110 feet adjoining a street
- H. *Minimum lot width at the building line*, 100 feet.
- I. *Minimum buffer requirements*. In addition to required setbacks, a minimum fifteen (15) foot wide buffer shall be required along all property lines which abut a residential district or use to provide a visual screen.
- J. *Outdoor storage*. Outside storage and parking of maintenance equipment shall be screened from all adjoining properties and streets.
- K. *Accessory structure requirements*.
- L. *Additional requirements*.
1. Cemetery uses shall be perpetual care and must meet all applicable state regulations pertaining to cemetery developments.
  2. A solid opaque fence or masonry wall with a minimum height of six (6) feet and/or fifteen-foot buffer shall be required along all property lines abutting a residential district.
  3. For new or redeveloped structures, an analysis on impacts of utility infrastructure and city services, schools, community access and pedestrian connectivity shall be provided.

10.1.4 *Other regulations*. The headings below contain additional, but not necessarily all, provisions applicable to uses allowed in the P-I district.

- *City of Cleveland Landscaping Ordinance*.
- *City of Cleveland Sign Ordinance*
- *City of Cleveland Camp Ordinance*.

## **ARTICLE XI. INDUSTRIAL DISTRICT REGULATIONS**

### **Sec. 11.1. L- I, Light Industrial district.**

11.1.1 *L-I District scope and intent*. Regulations in this section are the L-I district regulations. The L-I district is intended to provide locations and areas for the development of industrial and business parks and uses which meet the needs of processing, manufacturing, fabricating and warehousing, research, related office uses, and other uses as further described in section 3.1.12 of this chapter.

Light manufacturing establishments shall consist of any manufacturing establishment which does not use water in the manufacturing operation either for processing, cooling or heating and which shall emit no smoke, noise, odor, dust, vibrations, or fumes beyond the walls of the building in which housed.

Manufacturing establishments which use limited water in the manufacturing operation either for processing, cooling or heating; or which emit smoke, noise, odor, dust, vibrations, or fumes beyond the walls of the building in which housed shall not be allowed, except with approval of a special use in accordance with standards further described in section 16.4.9.

11.1.2 *Use regulations.* Within the L-I district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as allowed shall not be permitted.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Amateur radio transmitter.
- Automotive storage yards and wrecker service.
- Aviation airports.
- Bus stations.
- Cheerleading/Gymnastics facilities and indoor athletic training facilities.
- Clinic or hospital, animal.
- Clubs or lodges (non-commercial) (SU).\*
- Construction contractors: general contractors, heavy equipment contractors, and special trade contractors (including, but not limited to, construction subcontractors, engineers, architects, and land surveyors)
- Distribution.
- Indoor Recreation Facilities.
- Manufacturing (not to exceed 15,000 sq. ft.).
- Offices.
- Outdoor golf driving ranges.
- Parking lots.
- Places of Assembly (CU)\*
- Processing. (not to exceed 15,000 sq. ft.)
- Public utility facilities.
- Radio, television, or other communication towers.
- Religious institutions (CU).\*
- Repair garage, automotive (no outdoor storage of inoperable and/or dismantled vehicles).
- Repair garage, heavy equipment (no outdoor storage of inoperable and/or dismantled trucks and equipment).
- Research facilities.
- Restaurants
- Self-service storage facilities (mini-warehouses) 100 ft front setback, perimeter screening (CU)\*.
- Schools, private (CU).\*
- Tattoo/Body piercing parlors (CU).\*
- Taxi stands.
- Truck terminals.
- Warehousing.
- Wholesale trade and distribution.

\*Conditional Use approval required

\*Special use approval required.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use.

11.1.3 *Development standards.*

- A. *Height regulations.* Buildings shall not exceed a height of fifty(50) feet..
- B. *Front yard setback,* 80 feet.
- C. *Side yard setback,* 25 feet.
- D. *Rear yard setback,* 50 feet.
- E. *Minimum lot area,* None.
- F. *Minimum lot frontage,* 110 feet adjoining a street.
- G. *Minimum lot width at the building line,* 100 feet.

H. The front façade of metal buildings constructed or placed in the L-I district, and all portions of the building that face public road right-of-way, shall be finished with brick, stone, or hard-coat stucco.

I. *Minimum buffer requirements.* In addition to required setbacks, a minimum thirty-five (35) foot wide buffer, ten (10) feet of which can be within required setback, and a fifteen (15) foot wide buffer adjacent to all other districts other than residential, L-I and H-I, shall be required along all property lines which abut a residential district or use to provide a visual screen in accordance with section 4.17 of this chapter.

J. For new or redeveloped structures, an analysis on impacts of utility infrastructure and city services, schools, community access and pedestrian connectivity shall be provided.

K. *Accessory structure requirements.* See section 4.9 of this chapter.

11.1.4 *Other regulations.* The headings below contain additional, but not necessarily all provisions applicable to the L-I district.

- *City of Cleveland Landscaping Ordinance.*
- *City of Cleveland Sign Ordinance.*

## **Sec. 11.2. H-I, Heavy Industrial district.**

11.2.1 *H-I District scope and intent.* Regulations in this section are the H-I district regulations. The H-I district is intended to provide locations for a full range of manufacturing, processing, terminal and warehousing uses, salvage yards, closely related activities, and other uses as further described in section 3.1.13 of this chapter.

11.2.2 *Use regulations.* Within the H-I district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as allowed shall not be permitted.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Amateur radio transmitter.
- Adult entertainment establishments (SU).\*
- Aviation airports.(SU)\*
- Bus stations.
- Clinic or hospital, animal.
- Construction contractors: general contractors, heavy equipment contractors, and special trade contractors (including, but not limited to, construction subcontractors, engineers, architects, and land surveyors).
- Distribution.
- Manufacturing, processing, warehousing, distribution, and research facilities.
- Offices.
- Parking lots.
- Public utilities facilities.
- Radio, television, or other communication towers.
- Research facilities.
- Salvage yards (SU).\*
- Trash transfer stations (SU).\*
- Truck terminals.
- Wholesale trade and distribution.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use.

11.2.3 *Development standards.*

A. *Height regulations.* No structure shall exceed fifty (50) feet in height.

B. *Front yard setback,* 100 feet.

C. *Side yard setback,* 25 feet.

- D. *Rear yard setback*, 50 feet.
- E. *Minimum lot area*, None.
- F. *Minimum lot frontage*, 175 feet adjoining a street.
- G. *Minimum lot width at the building line*, 100 feet.
- H. *Minimum buffer requirements*. In addition to required setbacks there shall be a fifty (50) foot wide buffer along all property lines which abut a residential district or use and a fifteen (25) foot wide buffer shall be required along all property lines abutting a non-residential district other than the H-I district. Said buffers shall provide a visual screen in accordance with section 4.17 of this chapter. (Salvage yards see section 10.2.3.J. of this chapter)
- I. *Accessory structure requirements*. See section 4.9 of this chapter.
- J. *Other required standards*.
  1. No use shall be allowed that exceeds state and federal guidelines for allowable emissions and discharge of effluents into the air, water and soil.
  2. No use shall be allowed that creates unabated noise creating a nuisance as defined under Georgia Law.
  3. For new or redeveloped structures, an analysis on impacts of utility infrastructure and city services, schools, community access and pedestrian connectivity shall be provided.

11.2.4 *Other regulations*. The headings below contain additional, but not necessarily all provisions applicable to uses allowed in the H-I district.

- *City of Cleveland Landscaping Ordinance*.
- *City of Cleveland Sign Ordinance*.

11.2.5 *Mining use regulations*. Mining land uses and structures shall be used in accordance with the standards herein. Any use not specifically designated as allowed shall be prohibited.

A. *Permitted uses*. Structures and land may be used for only the following purposes:

- Milling.(SU)\*
- Mining/extraction, 500 feet setback/buffer from all property lines. (SU)\*
- Public utility facilities.
- Quarrying. 500 feet setback/buffer from all property lines.(SU)\*
- Radio, television and other communication towers.
- Surface mining. .(SU)\*

(SU) Special use approval required.

B. *Accessory uses*. Structures and land may be used for uses customarily incidental to any permitted use.

11.2.6 *Development regulations*.

- A. The removal area shall be completely enclosed with a fence not less than six (6) feet in height where necessary for safety.
- B. Drainage plans and a plan for the site when the extraction is completed shall be submitted with the application for a development permit.
- C. Quarrying shall be established only on a site of not less than 500 hundred (500) acres.
- D. When abutting any other district, a five hundred (500) foot undisturbed buffer shall be required, unless activity is limited to surface mining as defined by this chapter. When abutting any other district, a one hundred fifty (150) foot undisturbed buffer shall be required for surface mining.

11.2.7 *Other regulations*. The headings below contain additional, but not necessarily all, provisions applicable to uses allowed in the H-I district.

- *City of Cleveland Landscaping Ordinance*.
- *City of Cleveland Sign Ordinance*.

## ARTICLE XII. SPECIAL USE PERMITS AND CONDITIONAL USES

### Sec. 12.1. Special Use Permits.

#### 12.1.1. Special Use Permits.

The special use permit is designed to be used when:

- (a) A special use listed under the land use district is desired would not be appropriate without restrictions and is not permitted by right or conditionally, but allowed through regulations as to the number, area, location, relation to neighborhoods, operations or other pertinent considerations and specification/criteria as specified in this code; or
- (b) A unique use not addressed in any land use district is desired for development and is not likely to be duplicated within the city.

In order to accommodate these special uses, the special use permit allows the City Council to approve a special use on a particular lot or tract without changing the general land use district. Such approval shall be subject to the requirements set forth below and any additional conditions deemed necessary to ensure the compatibility or reduce conflict of the special use with the surrounding properties. All special use permit applications shall be for firm development proposals only. The special use permit shall not be used for securing early land use for conceptual proposals which may not be undertaken for some time. A special use permit application shall be considered only if it is made by the owner of the property or an authorized agent: The minimum requirements for a special use permit are:

- (1) Any uses permitted under a special use permit shall also conform to the requirements of this resolution and the development regulations for the use as found in the land use district.
- (2) Special Use Permits shall be considered and issued within only those designated districts of this ordinance.
- (3) The application and review process for a special use permit shall be the same as for the land use district under which the special use is found. In addition to the information and/or site plans which are required to be submitted for the proposed development, additional information deemed necessary by the Planning Director in order to evaluate a proposed use and its relationship to the surrounding area shall be submitted. In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility or conflict of the proposed use with its neighborhood.
- (4) In the approval process for a special use permit application, the City Council shall consider the policies and objectives of the comprehensive plan, particularly in relationship to the proposed site and surrounding area, and shall consider the potential adverse impacts on the surrounding area, especially with regard to but not limited to traffic, storm drainage, land values and compatibility of land use activities.
- (5) If an application is approved and a special use permit is granted, all conditions which have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. Once established, the special use shall be in continuous operation. Upon discovery that the operation of the special use has or had ceased for a period of 90 days or more and the owner of the property has not requested voluntary termination of the special use permit, the Director shall forward a report to the City through the Planning and Zoning Board which may recommend that action be taken to remove the special use permit from the property.
- (6) Changes to a special use or development of a site for the special use shall be treated as an amendment to the special use permit and shall be subject to the same application and review process as a new application.
- (7) The special use for which a special use permit is granted shall commence operations or construction within 12 months of the date of approval by the City Council. If, at the end of this 12-month period, the Planning Director determines that active efforts are not proceeding toward operation or construction, a report may be forwarded to the City Council through the Planning and Zoning Board which may recommend that action be taken to remove the special use permit from the property.



- (8) An application for a special use permit in a residential district and which use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:
- a. The special use permit shall be valid for no more than a two-year period. Upon or before the expiration of a special use permit, the owner shall make application to continue the special use permit if continuance is desired. However, after the first two-year period the City Council may waive the two-year time limitation with the concurrence and recommendation of the Planning and Zoning Board.
  - b. The special use shall operate within the dwelling on the property or, if approved by the City Council, in an accessory structure.
  - c. The exterior character of a dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of the special use to the neighborhood, except for any accessory structure approved by the City Council.
  - d. The owner of the property shall occupy the property and shall operate any business associated with the special use.
  - e. The owner of the property shall submit with the application a signed statement in which they agree that the special use permit, if approved, shall automatically terminate in the event that the property is sold, transferred or otherwise conveyed to any other party, or the business which operates the special use is sold, transferred, otherwise conveyed or discontinued. The owner shall also agree to notify the Planning Director in writing upon the occurrence of any of these events.
  - f. In addition to the information and/or site plans required by this section, the owner of the property shall submit with the application for a special use permit information regarding the ownership of any business associated with the use, the experience and background qualifications related to the operation of said business, prior similar businesses operated, applicable State of Georgia certifications, licenses and like information.
- (9) The owner of the property approved for a special use may voluntarily request termination of the special use permit by notifying the director in writing. The Planning Director shall notify the City Council through the Planning and Zoning Board of the voluntary terminations as they occur and shall change the official land use maps to reflect any voluntary terminations. The approval of a special use permit for a specific use which may be operated by a lessee under a private agreement with a lessor in any non-residential district shall not obligate the City Council to be responsible for or be required to resolve any disputes which may arise out of the voluntary termination of the special use permit by the property owner.
- (10) The Planning Department shall have the right to periodically examine the operations of the specific use to determine compliance with the requirements of any conditions. If the Planning Director determines that the requirements and conditions are being violated, a written notice shall be issued to the owner of the property outlining the nature of the violations and giving the owner of the property a maximum of ten days to come into compliance. If after ten days the violations continue to exist, the Planning Director shall forward a report to the City Council through the Planning and Zoning Board, which may recommend that action be taken to remove the special use permit from the property.
- (11) Upon approval by the City Council, a special use permit shall be identified on the official zoning and/or land use maps.
- (12) Upon approval by the City Council of a special use permit, the owner of the property shall be issued a notice from the Planning Director, which states the specific use permitted, the requirements of this section and any conditions attached to the approval.
- (13) The Building Department shall not issue a certificate of occupancy for the specific use unless all requirements and conditions of the special use permit have been fulfilled by the owner of the property.

*12.1.2. Conditions Considered for Special Use Permit.*

In adopting an amendment to the land use map, or approving a special use permit, the City Council

may impose special conditions which it deems necessary in order to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the comprehensive plan. Such conditions may consist of, but are not limited to: setback requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses; driveway curb cut restrictions; restrictions as to what land uses or activities shall be permitted; maximum building heights or other dimensions; special drainage or erosion provisions; landscaping or planted area, which may include the location, type and maintenance of plant materials; fences, walls, berms, or other buffering provisions or protective measures; preservation of existing trees or other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that developers must build according to the site plans as adopted; a limitation on exterior modifications of existing buildings; or any other requirement that the City Council may deem appropriate and necessary as a condition of reclassification of use or issuance of a variance or special use permit.

Such conditions:

- (1) Shall only be valid if they are included in the motion approving the amendment for adoption;
- (2) Shall be in effect for the period of time specified in the amendment;
- (3) Shall be required of the property owner and all subsequent owners as a condition of their use of the property;
- (4) Shall be interpreted and continuously enforced by the development director in the same manner as any other provision of this resolution; and
- (5) A building permit shall not be issued until after the presentation and approval by the Planning and Zoning Board of final site, architecture and development plans required by such conditions.

#### *12.1.3. Procedures and Review Standards.*

The procedures and review standards for applications for a special use permit shall follow those same procedures and standards set forth in Article ??? of this Ordinance.

### **Sec. 12.2. Conditional Use Permits.**

#### *12.2.1. Conditional Uses.*

In adopting an amendment to the land use map, or approving a conditional use, the City Council may impose special conditions which it deems necessary in order to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the comprehensive plan. Such conditions may consist of, but are not limited to: setback requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses; driveway curb cut restrictions; restrictions as to what land uses or activities shall be permitted; maximum building heights or other dimensions; special drainage or erosion provisions; landscaping or planted area, which may include the location, type and maintenance of plant materials; fences, walls, berms, or other buffering provisions or protective measures; preservation of existing trees or other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that developers must build according to the site plans as adopted; a limitation on exterior modifications of existing buildings; or any other requirement(s) the City Council may deem appropriate and necessary as a condition of reclassification of use or issuance of a variance or special use permit.

Such conditions:

1. Shall only be valid if they are included in the motion approving the amendment for adoption;
2. Shall be in effect for the period of time specified in the amendment;
3. Shall be required of the property owner and all subsequent owners as a condition of their use of the property;
4. Shall be interpreted and continuously enforced by the development director in the same manner as any other provision of this resolution; and

5. A building permit shall not be issued until after the presentation and approval by the Planning and Zoning Board of final site, architecture and development plans required by such conditions.

1. Land Use districts established herein permit certain uses which are allowable therein provided they meet specified conditions, as set forth therein and here. No such use shall be permitted until a conditional use permit has been issued authorizing such use. The procedures for granting such permits shall be the same as for amendments to the zoning ordinance or zoning map.

2. Those conditions specified in this Ordinance shall be considered to be the minimum standards which must be met before the conditional use application may be considered by the Planning and Zoning Board for review and recommendation and the City Council for decision. In deciding upon whether or not a conditional use meets the minimum standards and promotes the health, safety, morals, or general welfare of the City, the City Council shall utilize the applicable standards of review set forth in this Ordinance.

3. If the City Council, after applying the evidence to the standards of review and conditions, have been convinced that the allowance of the conditional use will promote the health, safety, morals, or general welfare of the City, a conditional use permit may be granted, subject to those provisions that may be imposed by the City Council.

#### *12.2.2. Criteria to Consider for Conditional Uses.*

The applicant, staff, Planning and Zoning Board and City Council should review applications for conditional uses with regard to the following criteria, in addition to other standards and criteria set forth in this ordinance:

1. Off-street parking and loading facilities are adequate in terms of location, amount and design to serve the use.
2. The number, size and type of signs proposed are compatible with the surrounding area.
3. The amount and location of open space and the provisions of screening is such that buffering of incompatible uses is achieved.
4. Ingress and egress to the property is suitable and safe, and the effects of the proposed activity on traffic flow along adjoining streets is not adverse.
5. The location and intensity of outdoor lighting is such that it does not cast light on adjacent or neighboring properties.
6. Hours and manner of operation of the proposed are not inconsistent with adjacent and nearby uses.
7. Public facilities and utilities are capable of adequately serving the proposed use.
8. The proposed use will not have a significant adverse effect on the level of property values or the general character of adjacent land uses or the general area.
9. The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development.
10. The proposed use is consistent with the goals and objectives of the Comprehensive Plan of the City of Cleveland and this Ordinance. The staff, Planning and Zoning Board and City Council may consider other factors deemed relevant before formulating recommendations and taking action on a particular conditional use application.

## **ARTICLE XIII. OFF-STREET PARKING AND SERVICE REQUIREMENTS**

### **Sec. 13.1. Scope of provisions.**

Except as provided in this section, no application for a building permit shall be approved unless there is included with the plan for such building, improvements, or use, a plat plan showing the required space reserved for off-street parking and service purposes. Occupancy shall not be allowed unless the required off-street parking and service facilities have been provided in accordance with those shown on the approved plan. These provisions shall not apply to the Courthouse Square in the B-1, CBD district.

### **Sec. 13.2. Drainage, construction, and maintenance.**

In non-single-family districts, all off-street parking, loading, and service areas shall be drained so as to prevent damage to abutting properties and/or public streets and shall be paved with a material such as concrete, asphalt or pavers which will assure a surface resistant to erosion. All requirements for design shall follow the Georgia Stormwater Manual. Outdoor storage yards in industrial areas may be surfaced with gravel; the use of impervious surface materials such as concrete or asphalt is discouraged on outdoor storage yards because of increased stormwater runoff associated with such paving materials. Driveways and parking spaces for all single-family uses shall be surfaced with an all-weather surface material (e.g. pavers, concrete, or asphalt). All such areas shall be at all times maintained at the expense of the owners thereof, in a clean, orderly, and dust-free condition.

### **Sec. 13.3. Separation from walkways, sidewalks, and landscaped areas.**

All off-street parking, loading, and service areas shall be separated from walkways, sidewalks, and landscaped areas by concrete curbing or bumper blocks. Curbing located in parking areas shall be constructed a minimum of the required buffer setback from private and/or public property lines.

### **Sec. 13.4. Joint parking facilities.**

Two (2) or more neighboring uses, of the same or different types, may provide joint facilities, provided that the number of off-street parking spaces is not less than the sum of the individual requirements.

### **Sec. 13.5. Pavement markings and signs.**

Each off-street parking space shall be clearly marked, and directional arrows or signs shall be provided whenever necessary. Markers, directional arrows, and signs shall be properly maintained so as to ensure their maximum efficiency (excludes required parking spaces for single-family uses).

### **Sec. 13.6. Number of parking spaces.**

In order to ensure a proper and uniform development of public parking areas throughout the area of jurisdiction of this chapter, to relieve traffic congestion on the streets, to lessen the amount of impervious surface in the City, and to minimize any detrimental effects on adjacent properties, off-street parking space shall be provided and maintained as called for in the following sections. For any use or class of use not mentioned in this section, the requirements shall be the same as similar use as mentioned herein.

Any decrease in the number of parking spaces required by this section must be approved by either the Planning Director under the Administrative Variance procedures or by the Board of Zoning Appeals under the Variance procedures set forth by this chapter.

Parking requirements for additions to existing uses shall be based upon the new addition even if the existing use is deficient. (These regulations shall apply to all districts except the Courthouse Square in the B-1 CBD, which shall require a special analysis of parking needs for any proposed use.)

13.6.1 *Apartment and multi-family dwelling.* Two and a half (2.5) spaces for each dwelling unit. One visitor space for every ten units.

13.6.2 *Auditorium, stadium, assembly hall, gymnasium, theater, community recreation center, religious institution.* One (1) space per four (4) fixed seats in largest assembly room or area, or one (1) space for each fifty (50) square feet of floor area available for the accommodation of movable seats in the largest assembly room, whichever is greater

13.6.3 *Automobile fueling station:* One (1) space (in addition to service area) for each pump and grease rack, but not less than six (6) spaces.

13.6.4 *Automobile, truck, recreational vehicle sales and service.* One (1) space for each five hundred (500) square feet of gross floor area and eight (8) spaces per bay.

13.6.5 *Automotive, truck, recreational vehicle repair and service.* One (1) space for each five hundred (500) square feet of gross floor area and eight (8) spaces per bay.

13.6.6 *Billiards and pool halls.* Two (2) spaces per pool table.

13.6.7 *Bowling alley.* Two (2) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.

13.6.8 *Club or lodge.* One (1) space per four (4) fixed seats in largest assembly room or area, or one (1) space for each fifty (50) square feet of floor area available for the accommodation of movable seats in the largest assembly room, whichever is greater.

13.6.9 *Combined uses.* Parking spaces shall be the total of the space required for each separate use established by this schedule.

13.6.10 *Convenience food stores with self-service fueling pumps.* One (1) space per two hundred (200) square feet of gross floor space.

13.6.11 *Dance school.* One (1) space per two hundred (200) square feet of gross floor area plus safe and convenient loading and unloading of students.

13.6.12 *Dormitory, fraternity or sorority.* Three (3) spaces for each four (4) occupants.

13.6.13 *Golf course.* Four (4) spaces for each hole, plus requirements for any other use associated with the golf course.

13.6.14 *High schools, trade schools, colleges, and universities.* One (1) space for each teachers, employees and administrative personnel, ten (10) spaces for each classroom.

13.6.15 *Hospital or care home.* One (1) space for each beds, plus one space for each employee.

13.6.16 *Hotel/motel.* Two (2) spaces for each guest room, suite, or unit. One space for each employee.

13.6.17 *Indoor and outdoor recreational areas (commercial), and similar uses.* One (1) space for each one hundred fifty (150) square feet of gross floor, building, ground area, or combination devoted to such use.

13.6.18 *Industrial or manufacturing establishment or warehouse.* One (1) parking space for each one thousand (1,000) square feet of gross floor area.

13.6.19 *Kindergarten and nursery schools.* Two (2) spaces for each employee plus safe and convenient loading of students.

13.6.20 *Office, professional building, or similar use.* One (1) space for each three hundred (300) square feet of gross floor area.

13.6.21 *Personal service establishment.* One (1) space for each three hundred (300) square feet of gross floor area.

13.6.22 *Restaurant or place dispensing food, drink, or refreshments which provides seating indoors.* One (1) space for each four (4) seats provided for patron use. One space per employee on shift.

13.6.23 *Restaurant, drive-thru, with no provision for seating indoors.* One and a half (1.5) spaces per one hundred (100) square feet of gross floor area, but not less than fifteen (15) spaces.

13.6.24 *Retail stores of all.* One (1) space for each two hundred and fifty (250) square feet of gross floor area.

13.6.25 *Schools, elementary.* Four (4) spaces for each classroom, plus safe and convenient loading and unloading of students.

13.6.26 *Shopping center.* One (1) space for each three hundred (300) square feet of gross floor area.

13.6.27 *Single-family dwelling.* Two (2) spaces per each unit. (A driveway shall not be considered a parking space when determining required parking for a single-family dwelling).

13.6.28 *Wholesale establishment:* One (1) parking space for each one thousand (1,000) square feet of gross floor area.

### **Sec. 13.7. Required loading spaces.**

Industrial, wholesale, and retail operations shall provide loading space as follows:

13.7.1 *Spaces appropriate to functions.* Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.

13.7.2 *Design of loading spaces.* Off-street loading spaces shall be designed and constructed so that all maneuvering to park and un-park vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces shall be provided so as not to interfere with the free normal movement of vehicles and pedestrians on public rights-of-way.

13.7.3 *Ingress and egress.* Ingress and egress to off-street loading spaces shall conform to driveway entrance regulations as required by the state department of transportation or the City of Cleveland.

13.7.4 *Screening of loading and service areas.* Any service area, loading area, or refuse area between a principle building and a public street being visible from said street in all mixed use, commercial and industrial districts shall be screened from view from said public street as specified in section 4.17 of this chapter. All loading and service areas shall be screened from adjoining residential properties in accordance with section 4.17 of this chapter.

### **Sec. 13.8. Parking of business vehicles in a residential district or use.**

The parking of a business vehicle in a residential zoning district or use shall be allowed under the following conditions:

A. Business vehicles of four (4) tons or greater empty weight or having a carrying capacity of more than one and one-half (1 1/2) tons shall not be stored or parked in any residential district overnight or on Saturdays or Sundays (excludes all 24-hour on-call emergency tow trucks, except tandem rig type tow trucks).

B. Twenty-four (24) hour on-call emergency tow trucks (excluding tandem rig type tow trucks) shall be allowed to be parked in residential districts provided such vehicles are parked in a side or rear yard only, on an all-weather surface, the operator does not unload vehicles on the property, the tow truck does not have a vehicle in tow while parked, and the presence of the tow truck does not create a nuisance to neighboring residential properties.

C. No more than two (2) commercial vehicles shall be parked on any single residential lot, or on any lot in any residentially zoned lot. Commercial vehicles may not be parked on any residential lot without an occupied single-family dwelling, and may not be parked on vacant residential lots.

### **Sec. 13.9. Parking of heavy construction vehicles or equipment or tractor trailers on property used for residential purposes.**

The parking of heavy construction vehicles or equipment on tractor trailers on property used for residential purposes shall be prohibited with the exception that construction equipment being parked or stored on residential property during the development of such property shall be permitted and must be removed within ten days of the issuance of a certificate of occupancy or upon the expiration of the building permit for the site, whichever occurs first.

### **Sec. 13.10. Parking of recreational vehicles on property used for residential purposes.**

Recreational vehicles (motor homes, fifth wheels, tag-alongs, pop-campers) parked in any residential zone or residentially-used area shall not be permitted to be parked in any required buffer area, nor in any front yard area. Recreational vehicles on residential property shall only be parked in the side or rear yard, on an all-weather surface material, and a minimum of five (5) feet from all property lines. No more than two (2) recreational vehicles shall be parked on any single residential lot.

## **ARTICLE XIV. NONCONFORMANCES**

### **Sec. 14.1. Nonconforming lots.**

Any lot for which a plat or legal description has been recorded in the Clerk of Superior Court of White County as of **INSERT DATE** which fails to comply with the dimensional requirements for the district in which it is located may, if vacant, be used for any of the uses permitted within the district by this chapter or, if occupied by a structure containing a conforming use, may have the structure improved, enlarged, or extended; provided that in either case:

A. Minimum requirements of the district for front, side, and rear yard, height, and floor area shall be complied with; and

B. The lot may be used for duplexes or multi-family dwellings when allowed within the district only if the lot meets the minimum lot area requirements for those uses in the district.

No plat of a land subdivision within the City of Cleveland shall be entitled to be recorded in the Clerk of Superior Court of White County unless it has the approval of the Planning Director or his/her designated representative inscribed thereon.

### **Sec. 14.2. Nonconforming open uses of land.**

Nonconforming uses consisting of lots used for storage yards, used car lots, auto salvage yards, golf driving ranges, miniature golf and similar open uses where the only buildings on the lot are incidental

and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter under this chapter in the district in which it is located, shall be governed by the following restrictions in addition to the other requirements in this chapter:

A. When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.

B. A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.

C. When any nonconforming open use of land is discontinued or abandoned, regardless of intent, for a period in excess of twelve (12) months, any future use of the land shall be limited to those uses permitted in that district under the provisions of this chapter. Vacancy and/or nonuse of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

### **Sec. 14.3. Nonconforming use of structures.**

Nonconforming uses consisting of structures and/or land or appurtenances used in conjunction with the primary purpose of the structure, at the time of the passage of this chapter, for purposes not permitted in the district in which they are located shall in addition to the other requirements of this chapter be governed by the following restrictions.

A. An existing nonconforming use of a structure and/or land or appurtenances used in conjunction with the primary purpose of the structure may be changed to another nonconforming use that is similar in its operation and effect on surrounding properties or may be changed to a conforming use.

B. An existing nonconforming use of a structure and/or land or appurtenances used in conjunction with the primary purpose of the structure shall not be changed to another nonconforming use that generates more automobile or truck traffic, creates more noise, vibration, smoke, dust or fumes, is a more intensive use of structures than the existing nonconforming use, and is in any way a greater nuisance to the adjoining properties than the existing nonconforming use.

C. A nonconforming use of a structure and/or land or appurtenances used in conjunction with the primary purpose of the structure shall not be extended or enlarged except into portions of the structure which at the time the use became nonconforming were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use, which would in any way increase the floor space, area, or volume of space occupied by the use, except that the Mayor and Council may, after a public hearing and review of the proposed plan, grant a special use if it is determined that said use will not be detrimental to the neighboring properties and is not contrary to the intent of this chapter.

D. When any nonconforming use of a structure and/or land or appurtenances used in conjunction with the primary purpose of the structure is discontinued for a period in excess of twelve (12) months, any future use of the structure shall be limited to those uses permitted in that district unless otherwise approved by the Mayor and Council. Vacancy and/or nonuse of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

### **Sec. 14.4. Reconstruction of nonconforming structures.**

When a nonconforming structure or a structure containing a nonconforming use is razed or damaged by fire, flood, wind, or act of nature, such structure may be reconstructed as a nonconforming use only if the damage totals less than seventy-five percent (75%) of the value of the structure; however, this provision shall not apply to owner-occupied dwellings. Structures which do not conform to the yard requirements of this chapter shall also be governed by this provision.

### **Sec. 14.5. Intended nonconforming use.**

Any intended nonconforming use for which a vested right was acquired prior to the adoption of this chapter or the adoption of an amendment thereto shall be prohibited unless such is actually commenced



within twelve (12) months of the adoption of this chapter or the adoption of an amendment thereto regardless of the intent or expectation to commence or abandon such nonconforming use.

**Sec. 14.6. Changes in zoning.**

Any nonconformances created by a change in district boundaries or ordinance regulations after the date of passage of this chapter shall also be governed by the provisions of this section.

**Sec. 14.7. Expansion of Existing Nonconforming Uses Requiring Special Use Permits**

No nonconforming use, building, structure and/or land or appurtenances used in conjunction with the primary purpose of the structure, requiring a special use permit under the terms of this chapter, including any use, building or structure that was authorized as of right prior to the adoption of this chapter but would require a special use permit upon the adoption of this chapter, shall be enlarged, expanded, moved, or otherwise altered in any manner except after application for and approval of a special use permit. Normal repair and maintenance of buildings and structures is authorized without the need for special use permits. No such use, building, or structure which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.

**ARTICLE XV. INTERPRETATION, ADMINISTRATIVE ACTION, AND ENFORCEMENT**

**Sec. 15.1. Interpretation.**

The zoning administrator shall interpret the provisions of this chapter and may utilize opinions of the city attorney and others in arriving at interpretations. Appeals from an interpretation of the zoning administrator shall be in accordance with the provisions of Article XVII of this chapter.

**Sec. 15.2. Administrative Variance.**

The zoning administrator is authorized by this chapter to consider an appeal for an Administrative Variance to reduce development standards and/or parking requirements by up to and including fifteen percent (15%). In rendering his or her decision, the director shall consider preexisting topographic, geological, hydrological, lot layout, or environmental factors.

To initiate an application for an administrative variance, an application must be submitted to the department of planning and development which shall include the following:

1. An application form supplied by the department of Planning and Development must be completed by the applicant.
2. A non-refundable fee.
3. A written narrative explaining and justifying the request.
4. A plat drawn to scale showing all property lines with dimensions, location of buildings and other structures, north arrow, street numbers, lot and/or parcel number from the White County tax sheet, locations of setback lines or other dimensional requirements from which the administrative variance is sought.
5. The signatures of the property owner, or his or her authorized representative, and the applicant.

*Notification to adjacent property owners.* The applicant for said administrative variance shall also give notice of the administrative variance to all property owners adjoining the property for which said administrative variance is sought. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the Post Office. Proof of mailing means either a first class "certificate of mailing" or a first class "certified mail" receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors shall be entitled to notice. In determining the adjoining

property owners, road, street, or railroad rights-of-way shall be disregarded. Proof of mailing for each recipient shall be provided to the zoning administrator before a decision is rendered. Said notice must be mailed at least seven (7) days prior to the decision of the zoning administrator.

*Information in notice to adjacent property owners.* The notice required to be served upon adjacent property owners shall contain the following information:

1. Name and address of the applicant;
2. Address and location of the property for which the administrative variance is sought;
3. Current zoning of the property for which the administrative variance is sought;
4. The administrative variance requested and the reason for the requested administrative variance;
5. The application file number; and
6. Contact information for the department of planning and development.

*Review for completeness.* The planning and development department shall review the application for completeness within seven (7) calendar days of submission. Incomplete or improper applications will be returned to the applicant.

*Decision.* In rendering a decision on an administrative variance application, the zoning administrator shall consider all information supplied by the applicant. Within fourteen (14) calendar days of receipt of a completed application for an administrative variance, the zoning administrator shall:

1. Approve the application as submitted;
2. Approve the application with conditions; or
3. Deny the application.

Such administrative variance may be granted in an individual case upon a finding by the zoning administrator that one or more of the following exists:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
3. Such conditions are peculiar to the particular piece of property involved; and
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this chapter; and
5. A literal interpretation of this chapter would deprive the applicant of any rights that others in the same district are allowed.

*Remedy.* Appeals from a decision by the zoning administrator shall be in accordance with the provisions of XVII of this chapter.

*Records.* The City Clerk shall keep public records of all administrative variances applied for and granted pursuant to this chapter.

### **Sec. 15.3. Conflict.**

This chapter shall supersede any other zoning regulations previously adopted or issued that are in conflict with any of the provisions of this chapter. This chapter shall not abolish any easements, covenants or other agreements between parties; provided, however, that whenever this chapter imposes a greater restriction upon the use of buildings or land than are imposed by such easements, covenants or agreements, the provisions of the chapter shall control.

**Sec. 15.4. Zoning enforcement officer; appeals.**

The provisions of this ordinance shall be administered and enforced by the zoning administrator, and/or his/her designee. Requests for an administrative variance from the requirements of this ordinance shall be heard and decided by the zoning administrator in accordance with the guidelines set forth in this section. Decisions of the zoning administrator may be appealed in accordance with the provisions of this article. Requests for a variance other than an administrative variance shall be heard and decided by the Planning and Zoning Commission and City Council in accordance with the guidelines set forth in Article XVII.

**Sec. 15.5. Remedies.**

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the zoning administrator, or any other appropriate City authority or any other person who would be damaged by such violation, in addition to other remedies, may seek injunctive, mandamus or other appropriate relief to prevent the violation in the case of each building or use of land.

**Sec. 15.6. Permits in effect.**

Nothing herein shall require any change in the plans, construction, size or designated use of any land, building, structure or part thereof for which a building permit or land disturbance permit was issued or vested right established prior to the effective date of this chapter or amendment thereto.

**Sec. 15.7. Periodic review of zoning ordinance.**

As needed, but at intervals of not more than five (5) years, the Planning and Zoning Commission shall re- examine the provisions of this chapter and the location of district boundary lines and shall submit a report to the City Council recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity, or general welfare.

**Sec. 15.8. Enforcement actions.**

15.8.1 *Enforcement options.* Enforcement of this ordinance may be through criminal prosecution, civil fines, or other civil proceedings. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this ordinance as the same exists or as it may hereafter be amended or which shall fail to do anything required by this ordinance as the same exists or as it may hereafter be amended shall be subject to an enforcement action.

(A) Representatives of the city shall have the power to conduct such investigations as may reasonably be deemed necessary to assure or compel compliance with the requirements and provisions of this ordinance, and for this purpose to enter at reasonable times upon any property for the purpose of investigation and inspection, as permitted by law. Officers and officials may seek inspection warrants or search warrants on probable cause of a violation occurring inside a structure. No warrant shall be required to investigate visible and open violations or uses.

(B) No person shall obstruct, hamper or interfere with any city representative while in the process of carrying out his official duties in the enforcement of this ordinance.

15.8.2 *Persons who may be cited.* Owners are ultimately responsible for the condition of their property and ensuring that their property and all activity occurring on such property is in compliance with this ordinance. For any violation, both the owner of the property and/or the individual agent, tenant or invitee of the owner responsible for the violation may be cited, where appropriate. Agents of the owner would include, but not be limited to, developers, builders, contractors, and sub-contractors. Tenants and invitees would include, but not be limited to, any renter, leaseholder, owner of any vehicle or structure on the property, or other person conducting an activity on the property who is not a trespasser. Corporations and

companies responsible for the work may be cited in lieu of or in addition to citations issued to the actual individuals on-site committing violations.

15.8.3 *Daily violations.* Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or criminal proceeding.

15.8.4 *Multiple violations.* Each separate action, omission, or occurrence relating to any specific provision of this ordinance shall be a separate violation, subjecting the offender to a separate citation. Multiple junk cars count as one violation.

15.8.5 *Criminal prosecution.* The zoning administrator, or designated code enforcement personnel, or other authorized personnel, may issue criminal citations for violations of this ordinance, or violation of any stop-work order.

(A) Criminal prosecutions for violation of this ordinance shall be commenced by the completion, signing, and service of a citation by an authorized city official or zoning or code enforcement officer. No warning need be issued prior to a citation being issued. The original of the citation shall be personally served upon the accused, his or her authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the magistrate court. A stop-work order may be issued in conjunction with a citation.

(B) Each citation shall state the time and place at which the accused is to appear for trial in municipal court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the court, shall indicate the identity of the accused and the date of service, and shall be signed by the police officer, code enforcement officer, or other authorized officer who completes and serves it.

(C) Any defendant who fails to appear for trial shall thereafter be arrested on the warrant of the municipal court judge and required to post a bond for his or her future appearance.

(D) The city attorney, or another attorney designated by City of Cleveland may act as prosecuting attorney for violations of this ordinance.

(E) Fines shall be assessed in accordance with Article XVI.

15.8.6 *Civil fines and proceedings.* In addition to or in lieu of any other remedy, the City may seek injunctive, mandamus or other appropriate relief in municipal court as appropriate or the Superior Court of White County to enjoin or prevent a violation of any provision of this ordinance. Such action may also seek civil fines at the mandatory rates specified in Article XVI for violation of this ordinance, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this ordinance. The city shall be entitled to its reasonable attorney's fees and costs for bringing an action in municipal court or superior court wherein any relief is granted or fine assessed.

15.8.7 *Stop work orders.* Upon notice from the zoning administrator, designated code enforcement officers, or other authorized personnel, work on any project that is being done contrary to the provisions of this ordinance shall be immediately stopped.

(A) Stop work orders shall affect all work being done on a project or development (which may include work done on other lots in the subdivision owned by the same violator). Stop work orders stop not only the work in violation, but all other work by contractors or sub-contractors on the same property. Only work to remedy the deficiency shall be allowed until the stop work order is lifted.

(B) A stop work order shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency or other exigent circumstances exist, no written notice shall be required, and a verbal stop work order may be issued, with a written order to be provided within three working days.

(C) Stop work orders may be issued on their own, or in conjunction with criminal citations, or civil

proceedings in municipal court or superior court.

(D) Issuance of a stop work order may be appealed to the Planning and Zoning Commission.

### **Sec. 15.9. Records.**

The zoning department shall keep records of violators, whether corporate or individual, in order to determine when second or subsequent violations occur.

## **ARTICLE XVI. VIOLATIONS AND PENALTIES**

### **Sec. 16.1. Violation.**

Any person, partnership or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of the chapter shall be placed or shall exist, and any builder, contractor, or agent of the owner who may have assisted in the commission of any such violation shall be guilty of a separate offense. Said violations will be prosecuted in the Municipal Court of the City of Cleveland unless the Superior Court of White County has original jurisdiction.

### **Sec. 16.2. Penalty.**

Except as otherwise provided, a person convicted of a violation of this chapter shall be punished by a fine not exceeding one thousand dollars (\$1000.00), imprisonment for a term not exceeding six (6) months, or both. With respect to violations of this chapter that are continuous with respect to time, each day the violation continues is a separate offense.

## **ARTICLE XVII. AMENDMENTS**

### **Sec. 17.1. Initiation of amendments.**

17.1.1 *Text amendment.* An application to amend the text of this ordinance may be initiated by the zoning and planning commission or be submitted to the zoning and planning commission by the City Council, zoning staff, or by any person having an interest in the city.

17.1.2 *Map amendment.* An application to amend the official zoning map may be initiated by the planning commission or be submitted to the planning commission by the City Council or zoning staff, property owner or agent of the owner. Unless initiated by the City Council, the planning commission or zoning staff, all applications to amend the official zoning map must be submitted by an owner of the affected property or an authorized agent of an owner, following procedures set forth in sections 17.2 and 17.3. If submitted by an agent of the owner, such authorization shall be notarized and attached to the application. If a property has multiple owners, only one owner need file the application, and it will be assumed that the other owners consent; however, if any owner does not consent to the application (or otherwise objects), the rezoning application will not go forward. If owned by a corporation or other entity, the application must be filed by a person with proper corporate or entity authority, and the zoning administrator may require documentation to support a claim of authority.

17.1.3 *Resubmission after denial.* In the event an application for an amendment to the zoning map has been denied, another rezoning application affecting the same property shall not be submitted nor accepted until six (6) months have passed from the date of the final decision by the City Council.

17.1.4 *Alter conditions.* An application to alter conditions of rezoning may be submitted at any time after the final decision of the City Council. The applicant must show a change in

circumstances or additional information not available to the applicant at the time of the original decision by the City Council to impose the condition. Another application to alter the same condition shall not be submitted more than once every twelve (12) months, such interval to begin on the date of the final decision by the City Council on said application to amend the condition.

17.1.5 *Withdrawal.* An application may be withdrawn without prejudice at any time prior to the planning commission and city council hearing. The city may give permission for a withdrawal without prejudice at its hearing. Unless withdrawn at the hearing, the withdrawal must be in writing, signed and dated by the applicant.

17.1.6 *Simultaneous applications.* If multiple amendments are submitted on one parcel, they are to be considered in the following order: 1) text amendments; 2) zoning map amendment; 3) special use permit; 4) zoning condition amendment. Each application shall be voted on separately, in the above-stated order. If a rezoning change is denied and the proposed special use is not permitted in the original zoning district, that application shall be denied.

17.1.7 *Campaign contribution disclosures.* Applicants and opponents to rezoning actions that change the zoning district on a parcel are requested to consult the Conflict of Interest in Zoning Act, O.C.G.A. § 36-67A-1, which requires disclosure of campaign contributions, made within two years of the rezoning application, and aggregating \$250.00 or more, to any planning commission member or any member of the City Council. Such disclosures should be filed at least five calendar days prior to the planning commission's hearing on forms available at the zoning office. Violation of this Act shall not affect the validity of the rezoning, but such action may be a misdemeanor under O.C.G.A. § 36-67A-4.

## **Sec. 17.2. Applications for amendments.**

17.2.1 *Applications.* Each application required by this ordinance, including without limitation, to amend this ordinance, or the official zoning maps shall be filed with the zoning administrator. The following requirements for information are mandatory, unless the requirement is deleted by the zoning administrator. The zoning administrator may require additional information to evaluate the application, the suitability of the proposed use, and other aspects of any proposed development, and any such information shall be provided. Such information is not required for city-initiated applications.

17.2.2 *Fee.* Along with the application, a non-refundable application fee is to be submitted at the time the application is submitted, pursuant to the fee schedule as adopted by the City of Cleveland.

17.2.3 *Procedure.* All applications must be complete. Incomplete applications will not be accepted.

17.2.4 *Text amendment applications.* Text amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the zoning administrator. Additional information may also be requested by the zoning administrator on the zoning application:

- (A) Name and current address of the applicant;
- (B) Current provisions of the text to be affected by the amendment;

- (C) Proposed wording of text change; and
- (D) Reason for the amendment request.
- (E) Names and addresses of the applicant, owners and their agents, if any, authorized to apply for an amendment; and
- (F) An initiating party shall also file any other information or supporting materials that are required by the City Council, planning commission, or zoning administrator.

17.2.5 *Zoning map amendment.* Official zoning map amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the zoning administrator. Additional information may also be requested by the zoning administrator:

- (A) A tax parcel card from the White County Tax Assessor identifying the parcel to be rezoned, or the parent parcel of the parcel to be rezoned, if a split or subdivision is occurring;
- (B) One copy of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat. The plat must be drawn in accordance with the GA State plane NAD83 West Zone US Feet, Coordinate System and all submissions are expected to be in True North, not magnetic north. For subdivision or non-residential developments, an additional electronic copy of the plat shall be submitted by the applicant, owner or developer to the Planning Director;
- (C) The present and proposed zoning district for the tract;
- (D) Existing and intermediate regional floodplain and structures, as shown on the Federal Emergency Management Agency FIRM rate maps for the City of Cleveland, if any;
- (E) The names and addresses of the owners of the land and their agents, if any;
- (F) The names, addresses and zoning of all adjoining property owners. In determining the adjoining property owners, streams and road, street or railroad rights-of-way shall not be disregarded;
- (G) No application for the rezoning of any property for a residential subdivision shall be accepted for filing unless the application is accompanied by a letter from the local government that will supply water to the property stating that public water is available to the property;
- (H) Indicate all existing site improvements and confirmation of the availability of all public utilities.
- (I) Street address, tax map parcel number(s), and the location of the tract proposed to be zoned with respect to nearby public streets.
- (J) The area of the land proposed to be zoned in acres, and square feet.
- (K) Such other and additional information as may be requested by the zoning administrator.

17.2.6 *Application schedule.* Applications shall be submitted according to the schedule set by the zoning administrator. Application fees for an application to amend this ordinance and/or the official zoning maps shall be established by the City Council and made available by the zoning administrator.

17.2.7 *Proposed conditions.* With respect to amendments to the official zoning maps, an applicant may file site plans, renderings, construction specifications, written development restrictions and other conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application.

### **Sec. 17.3. Public notification.**

17.3.1 Legal notice. Not less than thirty (30) days and not more than forty-five (45) days prior

to the scheduled date of the public hearing the final action by the city council, and in accordance with O.C.G.A. 36-66-1, et seq, and not less than ten (10) days prior to the planning commission meeting, a notice of public hearing shall be published in the legal notice section of a newspaper of general circulation within the City of Cleveland. Such notice shall state the application shall contain a summary of the proposed amendment in the case of a text amendment, and the location of the property, its area, owner, the current zoning classification, and the proposed zoning classification in the case of a map amendment. Such notice shall include both the planning commission and the city council meeting dates, time and location of the hearings. Advertising of the legal notice as required in this section shall be the responsibility of the city. If the application is for amendment to the official zoning maps, then the notice shall also include the location of the property, the present zoning district of the property, and the proposed zoning district of the property. The cost of the advertisement shall be borne by the applicant. If the notice does not run in the newspaper in conformance with these requirements, the application cannot be considered as scheduled. The applicant shall coordinate with the zoning office and re-advertise for a future hearing, as assigned by the staff.

17.3.2 **Signs posted.** The zoning administrator shall post, at least fifteen (15) days prior to the planning commission's public hearing and the City Council's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application and date, time and place of the public hearing.

17.3.3 **Letters to property owners.** The city shall notify each owner of property adjoining the property for which the amendment (other than a text amendment) is sought by mailing to each property owner a letter by first class mail. Only owners reflected on the records of the tax assessors shall be sent to notice, unless otherwise directed by city council. In determining the adjoining property owners, road, street or railroad rights-of-way shall not be disregarded. Notice shall also be provided by letter to such other impacted property owners or interest holders by public notice as required by this ordinance. Said notice must be mailed at least fifteen (15) days prior to the date of said scheduled public hearing.

17.3.4 **City initiation.** The provisions of subsections 17.3.1, 17.3.2 and 17.3.3 shall apply if the application is initiated by the zoning department staff, the planning commission or the City Council.

17.3.5 **Fee.** Along with the application, a non-refundable application fee is to be submitted at the time the application is submitted, pursuant to the fee schedule as adopted by the City of Cleveland. A fee shall not be charged for applications initiated by the zoning staff, City Council or planning commission.

#### **Sec. 17.4. Action by the planning commission.**

17.4.1 **Commission.** The planning commission was established and remains authorized for action under this ordinance. Existing commission members shall continue in their current terms unaffected by the adoption of this ordinance.

17.4.2 **Members.** Each commission member shall receive compensation for their service as established by the City Council, and shall be reimbursed for actual expenses incurred while representing the commission. Appointments shall be made by resolution of the City Council. Any vacancy in the membership of the commission shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the City



Council provided, however, that any member who fails to attend three consecutive meetings, without cause, may be removed. The commission may adopt such by-laws as it deems necessary to provide for the orderly conduct of its business.

17.4.3 *Public hearing.* The planning commission shall hold a public hearing on each application for an amendment pursuant to this article. As to each application, the planning commission shall make a recommendation for approval, approval with conditions, or denial. A tie vote on any motion shall equate to denial. The planning commission may grant the applicant's request to withdraw without prejudice at its hearing.

17.4.4 *Tabling application.* The planning commission shall have the power to table applications to seek more time for further information to be submitted. The action by the planning commission to table the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application; and no further notice, such as that required by section 17.3, is required. The application can be tabled for up to three months at a time to obtain necessary information or for other reasons of the planning commission. The application can be tabled more than once if necessary, extending the duration the application remains on the table.

17.4.5 *Report.* A written report or summary of the planning commission's recommendation shall be prepared by the zoning staff, and shall be a public record. The planning commission's action may recommend amendments or conditions to the applicant's request which would reduce the land area for which the application is made, change the district requested and recommend conditions of rezoning which may be deemed advisable so that the purpose of this ordinance will, if applicable, be served, and health, public safety and general welfare secured.

17.4.6 *Quorum.* A quorum of the Planning Commission shall consist of five (5) members.

17.4.7 *Meetings.* Meetings of the commission shall be held at the call of the chair or in his or her absence the vice chair, and at such other times as the board may determine. All meetings of the commission shall be open to the public

17.4.8 *Minutes.* The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the commission and may be a public record.

17.4.9 *Majority.* A majority of the members of the commission present (provided a quorum is present) shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to affect any variation of this ordinance.

### **Sec. 17.5. Conduct of the planning commission's hearing.**

17.5.1 *Sign up.* All persons who wish to address the planning commission at a hearing on the proposed amendment under consideration by the planning commission shall first sign up on a form to be provided by the city prior to the commencement of the hearing.

17.5.2 *Matter presented.* The chair of the planning commission or their designee will read the proposed amendments under consideration in the order determined by the zoning administrator. The zoning administrator, or his designee, shall then present the amendment,

along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed amendment.

17.5.3 *Speakers.* The chair of the planning commission or their designee will then call each person who has signed up to speak on the amendment in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the commission, in its discretion, allows the person to speak to the amendment, notwithstanding the failure of the person to sign up prior to the hearing.

17.5.4 *Time limits.* Each speaker shall be allowed five minutes to address the planning commission concerning the amendment then under consideration, unless the planning commissions, by majority vote of the members present, votes to allow additional time for a particular speaker to address the commission on said proposed amendment. The applicant shall have a minimum of ten minutes for his presentation (including all related witnesses or experts). The applicant may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of his allotted time for rebuttal. Opponents are not allowed rebuttal or a second opportunity to speak, unless specifically granted by majority vote of the commission. In all circumstances, in order to comply with state law, the proponent(s) and opponent(s) of each amendment shall have no less than ten minutes per side for presentation of data, evidence, and opinion thereon; if there is only one applicant or opponent, such person shall have the full ten minutes if desired. In the event the opponents collectively take more than ten minutes, the applicant's time shall be extended similarly if desired. One member of the planning commission or zoning staff shall be designated as the time keeper to record the time expended by each speaker.

17.5.5 *Decorum and order.* Each speaker shall speak only to the merits of the proposed amendment under consideration and shall address his remarks only to the members of the planning commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed amendment under consideration. The chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed amendment is conducted in a fair and orderly manner.

17.5.6 These procedures shall be available in writing at each hearing.

#### **Sec. 17.6. Action by the City Council.**

17.6.1 *Public hearing.* Before taking action on a proposed amendment and after receipt of the planning commission recommendations, the City Council shall hold a public hearing on the proposed amendment made pursuant to this article, which shall be advertised as stated in section

17.3.1 and conducted pursuant to section 17.7.

17.6.2 *Powers of the City Council.* At the public hearing, the City Council shall review the analysis submitted by the initiating party and the recommendation prepared by the planning commission. So that the purpose of this ordinance will be served, health, public safety and general welfare secured, the City Council may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or

add or delete conditions of the application. The City Council shall have the power to impose a different zoning classification from the classification requested and impose any zoning conditions which ameliorate the impact of the zoning, or serve other lawful purposes of this ordinance. The submission of an application for a rezoning shall be deemed notice of this power and consent to any such action. The City Council may also remand the application, if it has been changed or for any reason, to the planning commission for further review and recommendation.

17.6.2 *Tabling application.* The City Council shall have the power to table applications, or to seek more time for further information to be submitted. The action by the City Council to table the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application; and no further notice, such as that required by section 17.3, is required. The application can be tabled for up to three months at a time to obtain necessary information or for other reasons of the City Council. The application can be tabled more than once if necessary, extending the duration the application remains on the table.

### **Sec. 17.7. Conduct of the City Council's hearing.**

17.7.1 *Sign up.* All persons who wish to address the City Council at a hearing concerning a proposed zoning decision under consideration by the City Council shall first sign up on a form to be provided by the city prior to the commencement of the hearing.

17.7.2 *Matter presented.* Proposed zoning decisions shall be called in the order determined by the City Manager. The Mayor or designee will read the proposed zoning amendments under consideration and the zoning administrator or designee shall summarize the departmental reviews and planning commission recommendations pertaining thereto prior to receiving public input on said proposed zoning decision.

17.7.3 *Speakers.* The Mayor or her designee shall call each person who has signed up to speak on the zoning decision in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the City Council, in his discretion, allows the person to speak to the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.

17.7.4 *Time limits.* Each speaker shall be allowed five minutes to address the City Council concerning the zoning decision then under consideration, unless the City Council allows additional time for a particular speaker to address the City Council on said proposed zoning decision. The applicant shall have a minimum of ten minutes for his presentation (including all related witnesses or experts). The applicant may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of his allotted time for rebuttal. Opponents are not allowed rebuttal or a second opportunity to speak, unless specifically granted by the City Council. In all circumstances, the proponent(s) and opponent(s) of each amendment shall have no less than ten minutes per side for presentation of data, evidence, and opinion thereon; if there is only one applicant or opponent, such person shall have the full ten minutes if desired. In the event the opponents collectively take more than ten minutes, the applicant's time shall be extended similarly if desired. A member of the City Council's staff shall be designated as the time keeper to record the time expended by each speaker.

17.7.5 *Decorum and order.* Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his remarks only to the City Council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The City Council may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the City Council from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.

17.7.6 These procedures shall be available in writing at all hearings.

### **Sec. 17.8. Appeals to Superior Court.**

Appeals of the grant or denial of a rezoning decision shall be taken within thirty (30) days of the decision by filing an appeal in superior court, pursuant to the provisions in Title 5 of the Georgia Code. Such appeals shall be de novo.

### **Sec. 17.9. Standards for governing the exercise of zoning power.**

The following standards governing the exercise of the zoning power are adopted in accordance with

O.C.G.A. § 36-66-5(b):

- (1) The existing land uses and zoning classification of nearby property;
- (2) The suitability of the subject property for the zoned purposes;
- (3) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
- (4) Whether the subject property has a reasonable economic use as currently zoned;
- (5) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- (6) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
- (7) Whether the zoning proposal is in conformity with the then current future development plan and community agenda of the comprehensive land use plan as currently adopted or as amended in the future;
- (8) Whether the zoning proposal will result in a use which will or could; adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity;
- (9) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
- (10) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

### **Sec. 17.10. Public hearing records.**

The city clerk shall mechanically record the proceedings of all zoning public hearings. The record of the public hearing and all evidence submitted at the public hearing shall be noted as such and shall become a permanent part of the particular zoning amendment's file.

### **Sec. 17.11. Projects of regional impact.**

Any development or proposed project which is considered to be a project of regional impact by the State of Georgia must first be submitted to Georgia Mountains Regional Commission for review in accordance with the applicable state regulations and statutes before any zoning action can be taken with respect to said project.

### **Section 17.12. Annexation.**

The zoning administrator and planning commission shall make recommendations to the City Council on the initial zoning of land proposed to be annexed in the City of Cleveland, Georgia. Annexation applications, meeting the requirements of O.C.G.A. Title 36, Chapter 36, shall be submitted to the zoning administrator and shall include the following information. Additional information may also be requested by the zoning administrator:

1. A legal description of said property to be annexed;
2. Title opinion of an attorney certifying to ownership of the property or a notarized statement from the property owner as of the date of filing the application;
3. A complete survey showing the property in relation to the present city boundary. Said survey shall be drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat. The plat must be drawn in accordance with the GA State plane NAD83 West Zone US Feet, Coordinate System and all submissions are expected to be in True North, not magnetic north;
4. A copy of the pertinent White County Tax Map or maps showing where the property to be annexed is located in reference to existing municipal boundaries;
5. Applicant's proposed initial zoning classification for the property under this ordinance;
6. Governmental services and utilities currently provided for the property to be annexed, either by White County, public or private utilities, municipalities or authorities;
7. If applicable, County-owned public facilities of the area proposed to be annexed;

A vote by the City Council on zoning for an annexation proposal shall not constitute final action on a zoning decision until the annexation is finally approved and effective, including pre-clearance pursuant to section 5 of the Voting Rights Act of 1975, as amended. No land annexed into the City of Cleveland, Georgia, shall be unzoned.

## **ARTICLE XVIII. LEGAL STATUS PROVISIONS**

### **Sec. 18.1. Conflict with other regulations.**

Whenever the regulations of this ordinance require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other ordinance or statute, the regulations and requirements of this ordinance shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this ordinance, the provisions of such statute or ordinance shall govern.

### **Sec. 18.2. Separability / severability.**

Should any section or provision of this ordinance be declared by the courts to be

unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. It is the intent that any provision declared unconstitutional shall be severed from the ordinance, and the remainder of the ordinance remain in effect.

**Sec. 18.3. Repealer.**

This ordinance replaces the prior zoning ordinance, adopted 1970, as subsequently amended. In the event all of this ordinance is struck down as void, unconstitutional or invalid, including therefore this provision, the prior ordinances shall be considered to not have been repealed, and shall therefore still be in effect. In the event the prior ordinance is declared void, unconstitutional or invalid, the next prior ordinance shall be considered to not have been repealed, and shall therefore still be in effect; and so on.

**Sec. 18.4. Charge for copy of chapter.**

There shall be a charge, payable to the City of Cleveland for each copy of this chapter to partially defray publication cost.

**Sec. 18.5. Effective date.**

This ordinance shall take effect and be in force as of the date of its adoption, the public welfare of the City of Cleveland demanding.

**ARTICLE XXV. SUPPLEMENT: DISTRICT MAPS**

- A. Future Land Use Map
- B. Zoning Map
- C. Zoning Use Classification Chart
- D. Over-Lay Map (reserved for future)