



CLEVELAND HEIGHTS

COUNCIL UPDATE

October 29, 2021

MEETINGS & REMINDERS

Monday, November 1	6:00 p.m.	Public Hearing – Zoning Code City Hall – Council Chambers
	6:30 p.m.	Council Committee of the Whole City Hall – Council Chambers
	7:30 p.m.	City Council Meeting City Hall – Council Chambers
Tuesday, November 2	5:00 p.m.	Landmark Commission Online
	7:00 p.m.	Architectural Board of Review City Hall – Council Chambers
Thursday, November 4	6:00 – 8:00 p.m.	Meet Your Police Police Academy, Noble Road

LEGISLATION

- **Zoning Code.** An Ordinance amending various sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights.
- **Second Amendment to F&C MOU.** A Resolution authorizing the City Manager to enter into a second amendment to the Memorandum of Understanding with F&C Development, Inc. concerning the “Cedar-Lee Meadowbrook” development;
- **Appropriations.** An ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021

- **Proposed 2022 Budget.** An Ordinance to make appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio, for the period of January 1, 2022 through December 31, 2022;
- **ARPA Funds.** An Ordinance authorizing the allocation, appropriation and expenditure of ARPA funds for sewer infrastructure improvement projects;
- **County Health Department Agreement.** An Ordinance authorizing the renewal of an agreement with the Cuyahoga County General Health District for the provision of public health services to the City and its residents; providing compensation therefor;
- **Small Business Saturday.** A Resolution declaring November 27, 2021, “Small Business Saturday;”
- **ODOT LPA.** A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights;

CITY MANAGER'S REPORT

Department information

The Directors and Chiefs have begun the process of reviewing fees and the possibility of increases when warranted. Dedicated work from every Department has gone into the 2022 budget which is on first reading Monday.

Planning Director Zamft will present the proposed zoning changes at the hearing Monday at 6:00pm. (see enclosed) Staff has done a diligent job in reviewing the needed adjustments and changes in the code. This is on second reading.

Housing Director Butler has updated the information pertinent to the Novak Report recommendations (see enclosed). It is important to remember that staff had been implementing many of these ideas prior to the Novak final report of July, 2020 that arrived in the midst of the pandemic.

Regarding the TOH garage

The Building Commissioner reported the following:

- The garage design was approved and is designed for precipitation to enter the decks and then drain out;
- It has been permitted to be open to the weather;

- During heavy precipitation it is normal for puddling to occur and a slower drain and evaporation to occur;
- Remember that currently the construction of the buildings that are attached to the garage are not completed. When construction is completed, this will further tighten the parking decks and should lessen the accumulation of precipitation on the decks.

Automated trash project

Information is being posted regarding the delay in the automated trash program until Spring, 2022. This is totally due to a delay in shipping of the appropriate equipment needed for the vehicles. A postcard to every household is also going out. It was unfortunate timing with the Focus article that went out last week with the original plan just as we learned that plan could not be implemented until Spring.

Horseshoe Lake

Staff forwarded on to Gannett Fleming the questions and comments posted on the website regarding the project, as well as, a few that also came in directly to the City.



CLEVELAND HEIGHTS

ECONOMIC DEVELOPMENT REPORT – October 26, 2021:

CEDAR-LEE-MEADOWBROOK:

- Staff continues to be in negotiations on the Development Agreement with our Development Partner Flaherty & Collins at this time;

NEIGHBORHOOD REDEVELOPMENT PROGRAM (NRP) INFILL HOUSING CONSTRUCTION:

- The Development Agreement with Start Right CDC for the construction of infill single family owner-occupied housing in the Caledonia Neighborhood was approved on 10/4/2021. The project is now proceeding to implementation. The first home recently received approval from the Board of Zoning Appeals for various variance, and is not working its way through ABR. The City anticipates the project will yield up to 23 new infill houses constructed by Start Right on vacant City-owned properties in the Caledonia Neighborhood by 2026.

TAYLOR TUDOR PLAZA:

- The RFQ/RFP for the rehabilitation/redevelopment of Buildings #1, #2, & #3 was issued on 8/27/2021. The recently modified anticipated schedule for the project is:
 - Week of November 8: Building Tours – Interested Developers
 - Week of November 15: Building Tours – Interested Developers
 - Week of November 29: Pre-Submittal virtual call for Developers;
 - December 10: RFQ/RFP responses due
 - December 20: Select a Development Firm for the project

<https://www.clevelandheights.com/1443/Taylor-Tudor-Plaza-Redevelopment>

For additional information on this project.

TOP OF THE HILL:

- Construction on the project continues, with the completion date anticipated to be July of 2022 with a ribbon cutting soon thereafter;



CLEVELAND HEIGHTS

To: Susanna Niermann O'Neil, City Manager
From: Chief Dave Freeman, Cleveland Heights Fire Department
Subject: Fire Department Update
Date: October 27, 2021

Fire Department Update:

1. Our 2 new hires have completed initial training and are now assigned to shift, this brings us to full staffing.
2. We will be submitting for the purchase of the new ladder truck soon. We have received 2 quotes and this is a state bid contract item.
3. Due to our current financial situation, we have suspended all off-shift training, schools, etc. that would generate overtime. We are currently near the ceiling on the overtime budget due to several factors which include the award of additional time off in the collective bargaining agreement and the COVID 19 situation. We hope this will allow us to meet the budget.
4. Chief Freeman has contacted our billing company, LifeForce Management to see if ambulance billing fees should be raised.
5. We are in the beginning of the heating season and will be posting Carbon Monoxide and Fireplace awareness messages on the CHFD Facebook page.



Memorandum

To: Susanna Niermann O'Neil- City Manager
From: Allan Butler- Housing Programs Director
Date: October 27, 2021
Re: Housing Update

The Housing Department continues to review and implement the recommendations from the Novak Study for the Housing Department. An implementation template spreadsheet has been created and shared at the August 26, 2021 Public Safety and Health Committee of Council meeting. The implementation plan and updates are available online at the Housing Programs page on the City's website.

<https://www.clevelandheights.com/194/Housing-Programs>

A summary of the update includes continuing progress with the Citizenserve Software implementation of the Building Department Module. Contractor Registration training has begun for Safebuilt staff and the Contractor Registration portion is slated to go live shortly after. Multiple permit application processes have been completed in the new system and a couple remain to be installed. The target live date for permitting will be for the beginning of the 2022 calendar year. Permitting, payments, and reviews will be available online as well as in person.

Interviews are currently being conducted for posted positions of Housing Inspector and Rehab Specialist. We hope to find qualified applicants to fill some of the vacant positions that have remained vacant.

The Housing and Building Departments are open to the public with mask and social distancing requirements in place. All Housing Department applications, registrations and payments can be made online at

https://www.citizenserve.com/Portal/PortalController?Action=showHomePage&ctzPagePrefix=Portal_&installationID=280&original_iid=0&original_contactID=0

Interior inspections on occupied properties have resumed and will be requesting that the Cuyahoga County Board of Health recommendations to wear masks on indoor settings and maintain proper social distancing be followed for any scheduled interior inspection.

<https://www.ccbh.net/covid-19-guidance-and-links/>

Category	Rec #	Recommendation	Implementation Steps	Priority	Time to Accomplish	Person(s) Responsible	Column1
Policy Considerations	1	Develop a formal housing strategy with clear program goals and objectives.	<ul style="list-style-type: none"> Identify key stakeholders to participate in the strategy process Work with stakeholders to develop a thorough environmental scan of the City's housing stock and local housing market Develop specific goals and objectives regarding housing Define clear action steps designed to align Housing Department services, programs, and procedures with the overall housing strategy Create clear performance indicators to measure progress toward achieving strategic goals Regularly measure progress Regularly engage housing strategy stakeholders to discuss housing issues, progress, collaborative opportunities, process improvements 	2	6-12 months	Housing Director	The implementation of this recommendation will require the coordination of multiple departments and community partners due to the multitude of programs and duties involved. The current departmental strategy and direction and derive from numerous places including the Master Plan, Council Priorities, Housing Programs, new legislation, Economic Development and CDBG target areas, and housing market trends.
Policy Considerations	2	Conduct a comprehensive review of the City's Housing Code.	<ul style="list-style-type: none"> Determine whether to adopt a model code If adopting a model code, select the code version (e.g. IPMC 2015, IPMC 2018) Compare provisions of the model code to identify redundancies and variances with existing codes and policies Where redundancies and variances exist, determine whether to adopt model code provisions, amend the model code to reflect current policy, or adjust policy Inventory other current code provisions not addressed in the model code Determine whether existing code provisions should be adjusted to reflect current policies Revise existing code provisions to reflect existing policy, promote cohesiveness and consistency with other code provisions 	1	6-12 months	Housing Director; City Manager; City Attorney	The review of our Building and Housing Codes will likely include an outside agency in addition to our Law Dept. to determine if we adopt a model code to insert into our Codified Ordinances or maintain and revise our existing code.
Policy Considerations	3	Adopt a proactive code enforcement strategy.	<ul style="list-style-type: none"> Develop a checklist of key code provisions or potential violations to be inspected on a proactive basis Design proactive inspection routes within each Housing Inspector's district to promote regular visual contact with all properties in the district Require Inspectors to regularly drive routes and conduct inspections for key violations Issue courtesy notices for proactive violations prior to formally opening cases Pursue noncompliant violations with formal cases 	3	12-24 months	Housing Director	The Housing Dept. has regularly conducted proactive systematic inspections on owner <u>occupied properties</u> every 5 years and rental properties interior and exterior every 3 years. The City requires Certificate of Inspections on all properties <u>prior</u> to title transfer. Inspectors are assigned to zones when applicable to assess certain neighborhoods and perform <u>routine</u> checks of these areas for immediate violations.

Category	Rec #	Recommendation	Implementation Steps	Priority	Time to Accomplish	Person(s) Responsible	Column1
Policy Considerations	4	Enhance the Department's guidebook and develop a comprehensive code enforcement policy manual.	<ul style="list-style-type: none"> Form a committee of staff stakeholders to assist with reviewing and updating the manual Include references to the housing strategy in Recommendation 1 Update code provisions of the Reference and Training Manual pending the implementation of Recommendation 2 Update Inspections Procedures documentation to reflect any new code updates, proactive inspection requirements as described in Recommendation 3, and the outcome of technology and Citizenserve implementation Update Court Reins & Ticketing section to capture any adjustments to procedures and policies which arise from the code review process or other policy direction from the City's elected officials Add or remove other provisions and elements to the Manual as necessary and appropriate per the stakeholder committee Distribute the revised Manual to all Housing staff electronically Conduct a follow-up review process every three to five years 	2	3-6 months	Housing Director	The Department's current guidebook coincides with existing code and will be revised with any changes made per recommendation 2. Changes to the guidebook will be made in reference to new processes created via the new Citizenserve software.
Policy Considerations	5	Expand tenant education regarding the use of rent escrow accounts if landlords fail to remedy violations.	<ul style="list-style-type: none"> Develop educational materials regarding rent escrow provisions and eligibility Identify appropriate contacts at the Municipal Court who can guide tenants through the rent escrow process Work with tenants to identify circumstances where rent escrow is likely to secure compliance with existing housing codes Provide tenants with contact information for the Municipal Court Advise tenants of their rights with respect to rent escrow 	2	1-3 months	Housing Inspectors	The Housing Dept. has continually provided Rent-In-Escrow guides and Legal Aid Society information to tenants in need. We have added a link the Rent In Escrow form on our website and in the FAQ section. The C.H. Court website also has a Landlord/Tenant page with FAQ's and contact information for Court and Legal Aid Society.
Policy Considerations	6	Utilize civil procedures to enforce violations where appropriate.	<ul style="list-style-type: none"> Engage the City's legal team to expand civil enforcement procedures for codes administered by the Housing Department Where appropriate, standardize civil enforcement requirements and appeals procedures across codes Ensure the Citizenserve system and Department Manual are updated to reflect civil enforcement procedures as appropriate 	1	Ongoing	Housing Inspectors	The Law Dept. is aware of all legislation passed that includes civil penalties and reviews all housing cases before the court. Appeal procedures for violations and civil penalties for nuisance actions are stated in our ordinances and on every violation notice issued. The Housing Department routinely issues civil penalties for litter and nuisance violation which are tracked in the new software.

Category	Rec #	Recommendation	Implementation Steps	Priority	Time to Accomplish	Person(s) Responsible	Column1
Technology Enhancements and Process Improvements	7	Create a Citizenserve implementation committee to assist with process improvement and troubleshooting.	<ul style="list-style-type: none"> Identify Citizenserve stakeholders in the Department and City organization who can assist with process improvement, implementation, troubleshooting, and evaluation Stakeholders should include at a minimum: <ul style="list-style-type: none"> The Housing Director The Housing Inspector/Court Representative A Housing Investigator The Housing Program Coordinator An Office Assistant A representative from SAFEbuilt A representative from the City Manager's Office/Finance Department Create a regular meeting schedule for Citizenserve committee members Develop a project schedule describing implementation phases, activities and deliverables, and assignments among committee members Prioritize the schedule based on the complexity and intensity of processes, the likelihood that processes will change as the result of other recommendations in this report Utilize committee meetings to map all of the Housing Department's current processes and develop process improvements which should be incorporated into Citizenserve 	1	1-3 months	Housing Director	Weekly meetings are conducted with Citizenserve and CH staff to continue to implement the program. Current meetings include all Housing Inspection staff, Safebuilt representatives, and Planning Dept. representatives. Current implementation of the Building Department contractor registration is complete and training is ongoing. Building Permits are currently being implemented into the system for online applications.
Technology Enhancements and Process Improvements	8	Provide Inspectors with computers and telephones.	<ul style="list-style-type: none"> Engage the City's Information Technology staff to develop specifications and requirements for computers and telecommunications equipment Estimate equipment costs Identify budgetary resources to properly equip Housing Department Inspectors to access and update Citizenserve in the field Procure and deploy equipment Provide staff with any necessary training 	2	1-3 months	Housing Director	City inspectors have Ipads and can access our web based software in the field and create violation notices. Laptops or desktop computers are available to all staff and inspectors. Cell phones have been provided to inspectors.
Department Structure	9	Reclassify the Chief Housing Inspector as an Assistant Director.	<ul style="list-style-type: none"> Engage City Human Resources staff to develop a job description for an Assistant Director position Develop requirements regarding minimum qualifications and certifications for the Assistant Director, particularly if a model code is adopted (e.g. require certification with the model code) Conduct a position study and determine an appropriate level of compensation for this position Identify any additional budgetary resources necessary to hire for this position Advertise and recruit for the position Interview qualified candidates Select the best, most qualified candidate 	2	3-6 months	City Manager; Housing Director	An Assistant Director description and position has been developed replacing the Chief Housing Inspector position. The new position has been advertised and staff has conducted interviews with multiple candidates. The advertisement of the position and review process will continue until the position is filled.

Category	Rec #	Recommendation	Implementation Steps	Priority	Time to Accomplish	Person(s) Responsible	Column1
Department Structure	10	Continue utilizing SAFEbuilt to conduct POS inspections and fill a vacant Housing Inspector position.	<ul style="list-style-type: none"> Continue assigning all point of sale (POS) inspections to SAFEbuilt staff Calculate the fully-burdened cost of POS inspections conducted by SAFEbuilt Ensure POS fees cover the cost of contracted services Advertise and recruit for the vacant Housing Inspector position Interview qualified candidates Select the best, most qualified candidate Evaluate key performance measures and process times as new systems are implemented to determine whether additional staffing resources (including the remaining vacant position) are necessary 	2	Ongoing	Housing Director	Safebuilt is continuing to perform POS inspections which covered by the POS fees. The Housing Inspector position is currently advertised and staff is reviewing applicants and conducting interviews. Inspector William Ellington began his employment as a Housing Inspector on 8/30. Interviews for additional inspector candidates are currently ongoing.
Department Structure	11	Fill the vacant Rehabilitation Specialist position.	<ul style="list-style-type: none"> Advertise and recruit for the position Interview qualified candidates Select the best, most qualified candidate 	2	1-3 months	Housing Director	The Rehabilitation Specialist position is currently advertised and interviews for candidates are currently ongoing.
Department Structure	12	Reallocate duties assigned to Office Assistant positions as Citizenserve implementation proceeds.	<ul style="list-style-type: none"> Automate administrative processes using Citizenserve to the greatest extent possible Measure the impact of automation on Office Assistant workload and labor hours needed to accomplish core tasks Reallocate administrative duties to two Office Assistant positions Conduct an analysis to evaluate the need for a third Office Assistant position 	3	3-9 months	Housing Director	System review and data are being inputted to review and assessment of workload.
Department Structure	13	Create a Community Liaison position.	<ul style="list-style-type: none"> Engage City Human Resources staff to develop a job description for a Community Liaison position Conduct a position study and determine an appropriate level of compensation for this position Identify any additional budgetary resources necessary to hire for this position Advertise and recruit for the position Interview qualified candidates Select the best, most qualified candidate 	3	3-6 months	City Manager; Housing Director	Will be reviewed in future.
Management Practices	14	Establish performance measures and track workload and performance using Citizenserve.	<ul style="list-style-type: none"> Develop and select formal workload, efficiency, and outcome measures which will enable the City to measure the Department's progress towards strategic goals Ensure Citizenserve captures data indicators necessary to inform and track performance Regularly analyze performance information to determine whether programs and services meet expectations Review and update performance measures every 3-5 years to ensure measures continue to support strategic goals 	1	1-6 months	Housing Director	Assignments and tasks will be tracked through Citizenserve. Current staffing shortages make it difficult to assign duties to multiple persons.

Category	Rec #	Recommendation	Implementation Steps	Priority	Time to Accomplish	Person(s) Responsible	Column1
Management Practices	15	Engage in regular performance reviews/check-ins with staff.	<ul style="list-style-type: none"> Establish a practice and formal expectation of regular performance meetings between staff and supervisors Schedule performance meetings at least annually with each employee Engage in regular "check-ins" to provide real-time, ongoing feedback to employees about performance, expectations, and practices 	1	1-3 months	Housing Director	Routine meetings for quality and performance measurements are conducted and feedback is encouraged. Yearly evaluations will be performed.
Management Practices	16	Conduct regular department meetings.	<ul style="list-style-type: none"> Develop an agenda and key items to be discussed at each Department meeting, including but not limited to discussions about strategy, practices and procedures, use of discretion, challenging cases, technology changes, problematic properties, and requests Determine an appropriate frequency for regular department meetings, such as biweekly, monthly, or quarterly Require all staff to attend department meetings Provide opportunity during each meeting for staff to give feedback 	1	Monthly	Housing Director	Regular monthly staff meetings are conducted for staff to discuss agenda items, provide council meeting updates, and allow for feedback and discussion of related topics.
Management Practices	17	Require appropriate training and certifications for all Housing Inspectors.	<ul style="list-style-type: none"> Determine minimum certification requirements for Inspectors, such as certification with the model code if adopted Evaluate the need for additional training and certifications related to building and trades inspections Calculate the number of annual training hours required to achieve and maintain certifications Identify appropriate budgetary resources to ensure staff can achieve and maintain certifications Require staff to become certified and to maintain certified status 	1	6-12 months	Housing Director; Housing Inspectors	Inspector training and certifications will be determined by adopted code. Model codes and local codes are similar and training is beneficial and encouraged for all however the application of the training and knowledge may vary depending on the adopted code of the City .
Management Practices	18	Eliminate the bonus program for systematic inspections.	<ul style="list-style-type: none"> Eliminate this program and reallocate budgeted expenditures to other priorities 	1	Immediate	Housing Director	Completed
		LEGEND: GREEN INDICATES COMPLETED, YELLOW INDICATES IN PROGRESS, AND GREY INDICATES UNDER CONSIDERATION.					

Category	Rec #	Recommendation	Implementation Steps	Priority	Time to Accomplish	Person(s) Responsible	Column1



CLEVELAND HEIGHTS

Memorandum

To: Susanna Niermann O'Neil, City Manager
From: Ryan Prosser, IT Director
Subject: IT Department Update
Date: October 27, 2021

The City phone system replacement project is in full swing. All telephones and service lines are being inventoried and audited for a full replacement. Equipment is expected to arrive by next week, and service migration is scheduled for November 15, 2021.

Emergency call boxes, which were popular before the adaptation of cell phones, are being audited as well. They provide a device which automatically dials out to 911 when a handset is lifted or a button is pressed. Many of the devices remaining today are not working, as they relied on radio and telephone technology that is being decommissioned by the carriers and the FCC. Any devices deemed irreparable and counterproductive to public safety will be removed.

Out of date email servers and spam filter appliances will be upgraded later this year. Utility billing and time-and-attendance software auditing is progressing, with continued identification of new trends and features. On demand meetings and demonstrations between various vendors and the IT and Utility departments, are ongoing.



MEMORANDUM

To: Susanna Niermann O'Neil, City Manager

From: Eric Zamft, Planning Director

Date: October 27, 2021

Subject: Bi-Weekly Planning Department Update

HIGHLIGHTS OF PLANNING INITIATIVES

ZONING

A public hearing on proposed changes to the Zoning Code with regards to garages and other ancillary changes will be held on November 1, 2021 at 6 PM. All of the information related to the proposed amendments will be in the Council packet, as well as posted here: <https://www.clevelandheights.com/183/Planning-Department>

Other zoning related matters include:

- *On-Going Review of the Zoning Code* – Staff continues to work with the Planning Commission, the Law Department, Council and others to identify, discuss, and, ultimately, propose additional changes to the Zoning Code, including rain gardens/rain barrels, additional parking revisions, and accessory dwelling units (ADUs). If the public has any ideas regarding further zoning changes, please email those to planning@clvhts.com.

CEDAR-LEE-MEADOWBROOK REDEVELOPMENT

The site planning and design phase of the project continues. Staff has met internally to discuss public and staff comments to be integrated in the plan. Staff has met and will continue to meet on a weekly basis with the development partner's design team to ensure that integration. Parking and traffic studies are on-going. Staff will continue to update the webpage (<https://www.clevelandheights.com/1154/Cedar-Lee-Meadowbrook>) and provide more information in upcoming bi-weekly Planning Department reports. The public is encouraged to comment early and often, utilizing the project webpage comment form or emailing directly to planning@clvhts.com. In addition, the Planning Director is anticipating holding "meet and greets" in the Cedar-Lee District the week of November 8, 2021. Additional details will be provided on the project webpage.

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME ADMINISTRATION

FY 2021 CDBG funding has been released, allowing the City to submit reimbursement requests.

On October 19, 2021, the CAC met to adopt their recommendations on the Year 48 Funding Applications. Staff will present the recommendations to Council at the Committee of the Whole on November 1, 2021, which will allow a 30-day public comment period to open. Council will then need to hold a public hearing in December prior to adopting. City staff is currently in the process of developing recommendations for City Council to review and finalize in preparation for the Year 48 (2022) Annual Action Plan. Staff attended the Ohio Conference of Community Development (OCCD) Fall Quarterly meeting on October 28, 2021 and the Planning Director was on a panel discussing the importance of planning.

TRANSPORTATION

The City has been hard at work on transportation issues:

- *Cuyahoga County Shared Micro-Mobility Initiative* – Staff continues to work with the County, the SIDs, neighborhood groups, other City staff, and the scooter vendors on the implementation of the County-wide micro-mobility network, which includes e-scooters. Staff has received a number of complaints, including from accessibility advocacy groups and is spearheading the efforts to have the scooter vendors and the County address those concerns not only in Cleveland Heights, but throughout the network.
- *Complete and Green Streets Checklist* – Planning staff is working closely with the Department of Public Works and Transportation and Environmental Sustainability Advisory Committee (T&ES) on finalizing a Complete and Green Streets Checklist.
- *Compton Road Greenway* – Staff is working on the implementation of the Compton Road Greenway study. Staff is soliciting proposals from engineers to provide a preliminary design of the Greenway elements, which would allow for further engagement with the community.
- *South of Cedar Parking and Traffic Study Implementation* – Staff met with residents of Hardcourt Drive on October 7, 2021 to discuss traffic calming principles. The result is that the City will be testing temporary traffic calming measures on the street this fall. Staff is also developing a process for receiving and vetting traffic calming requests.

PLACEMAKING & PARK PLANNING; SUSTAINABILITY

Planning is helping to guide a number of placemaking activities, working collaboratively with the Manager's Office and other departments. The Planning Department, Parks and Recreation Department, and GIS are working together to identify open space and recreation opportunities, develop recommended inquiry process and policies, and understand budgetary and staffing impacts to provide recommendations to the City Manager. These recommendations will be shared by the internal Vacant Lots working group, who is developing a process to present to the City Manager and eventually Council regarding the disposition of vacant City-owned lots, including individual properties. As part of all of these efforts, staff is looking for additional opportunities for passive and active spaces, community gardens, and additional tree plantings (in collaboration with Heights Tree People).

The temporary parklet that was located on Cedar Road in the Cedar-Fairmont District was removed on October 18, 2021 after a successful trial run. Staff will be working on developing an application and process to be able to receive and vet requests for such parklets in the future and anticipates discussing making the program more permanent with Council in early-2022.



REDEVELOPMENT OPPORTUNITIES

Staff assists property owners and prospective property owners in evaluating redevelopment opportunities. This includes the Park Synagogue site and Severance Town Center. As a reminder, a website has been set up by the developer of the Park Synagogue site to solicit input: <https://sustainableca.com/park/>. Similarly, the Library has a website dedicated to the Noble Road Library expansion: <https://heightslibrary.org/noble-branch-renovation-project/>

OTHER

- *Grants* – Staff examines opportunities for funding as they arise. This effort, in many cases, involves coordinating with other City departments and/or outside agencies. As these planning-related grant and funding opportunities materialize, they will be presented in the bi-weekly Planning Department reports.

- *Role as Zoning Administrator and Administrative Approvals* – Planning staff serves as the Zoning Administrator and provides administrative approvals for a number of permitted activities. Recent administrative approvals include: fence permits, landscaping, exterior alterations that are similar to what was replaced, among others. Also, in this role, zoning-related complaints are reviewed and action is taken, if necessary.

COORDINATION WITH ECONOMIC DEVELOPMENT DEPARTMENT INITIATIVES

- *Neighborhood Redevelopment Program (NRP), Phase 1* – Start Right CDC has appeared before the Architectural Board of Review (ABR) for a preliminary review of a proposed model home to be constructed on 961 Nelaview Road and will be on the November 16, 2021 agenda for formal approval. Start Right received approval for variances at the October 20, 2021 Board of Zoning Appeals (BZA) meeting.
- *Cedar-Lee-Meadowbrook Redevelopment* – See above.
- *Unitarian Church Redevelopment* – Planning staff has been participating in discussions regarding the potential redevelopment of the Unitarian Church site and adjacent properties. Should Council move forward with a development partner, staff would help guide the development partner through the zoning and design review process.
- *Other Economic Development Initiatives* – Planning staff provides input and support on other initiatives, including additional NRP phases, the Taylor-Tudor Plaza properties, the Storefront program, solid waste needs for businesses, other redevelopment opportunities, developing additional funding mechanisms within the City, Top of the Hill landscaping plan, etc.

BOARDS AND COMMISSIONS

The Department of Planning assists the activities of the Architectural Board of Review (ABR), Board of Control, Board of Zoning Appeals (BZA), Landmark Commission, and Planning Commission, and provides staff assistance to the Citizens Advisory Committee (CAC), Racial Justice Task Force, Transportation & Environmental Sustainability Advisory Committee (T&ES), and City Council (when needed). Below are tables of both active and recently approved applications managed by the Department.

Note that there are a number of vacancies on the City's boards and commissions. Residents are encouraged to volunteer for these very important civic bodies. See <https://www.clevelandheights.com/1169/Boards-and-Commissions-Application> for more information.

ARCHITECTURAL BOARD OF REVIEW (ABR) – 1st and 3rd Tuesday

At the October 19, 2021 ABR meeting, the following applications were discussed and approved:

Address	Case #	Project Description
3489 Shannon Road	ABR 2021-38	Request to construct a two-story rear and side addition including a one-car, attached garage
2573 Kingston Road	ABR 2021-240	Request to install a two-car, detached garage
1849 Cumberland Road	ABR 2021-241	Request to construct a one-story addition
2808 Avondale Avenue	ABR 2021-242	Request to install new wood steps
2180 Briarwood Road	ABR 2021-243	Request to construct a two-car, detached garage
3962 Mayfield Road	ABR 2021-244	Request to install awnings with graphics
3520 Blanche Avenue	ABR 2021-245	Request to construct a two-car, detached garage
3524 Blanche Avenue	ABR 2021-246	Request to construct a two-car, detached garage
2515 Edgehill Road	ABR 2021-247	Request to install solar panels on the roof of the home
3795 Delmore Road	ABR 2021-248	Request to construct a two-car, detached garage
1048 Elbon Road	ABR 2021-249	Request to construct a two-car, detached garage
3050 Monmouth Road	ABR 2021-250	Request to alter the front porch and rear yard entry
2525 Stratford Road	ABR 2021-251	Request to alter windows and doors and redesign the garage exterior

The next ABR meeting will be held on November 2, 2021. The agenda from the meeting can be found at: <https://www.clevelandheights.com/DocumentCenter/View/9882>. The results of the meeting will be provided in the next bi-weekly Planning Department report.

BOARD OF CONTROL (As needed for the S-1 District)

There was no recent activity involving the Board of Control.

BOARD OF ZONING APPEALS (BZA) – 3rd Wednesday

At the October 20, 2021 BZA meeting, the following application was discussed and approved:

Address	Calendar No.	Project Description
961 Nelaview Road	Cal. No. 3530	Request variances to permit 1) a smaller front yard; 2) a smaller side yard; 3) an attached garage with a visible door on the street

The next BZA meeting will be held on November 17, 2021. A link to the agenda will be provided closer to the meeting date.

LANDMARK COMMISSION – 1st Tuesday of Odd Numbered Months

The next regularly scheduled Landmark Commission meeting will be held on November 2, 2021.

The agenda from the meeting can be found at:

<https://www.clevelandheights.com/DocumentCenter/View/9883>. The results of the meeting will be provided in the next bi-weekly Planning Department report.

PLANNING COMMISSION – 2nd Wednesday

At the October 13, 2021 Planning Commission meeting, the following applications were discussed and approved:

Address	Project No.	Project Description
Cinder Path-Bradford Road	Project No. 21-10	Planning Commission recommendation to Landmark Commission that the Cinder Path, Bradford Road be declared a Cleveland Heights Landmark
2181 North Taylor Road	Project No. 21-11	Planning Commission recommendation to Landmark Commission that 2181 North Taylor Road be declared a Cleveland Heights Landmark

In addition, the Planning Commission received a short presentation from Knez Homes regarding the South Taylor Townhomes project in University Heights that has a small portion of the open space in Cleveland Heights. The Planning Commission also received an update on the status of the Cedar-Lee-Meadowbrook redevelopment, vacant lots within the City, as well as discussed with staff training topics.

The next Planning Commission meeting will be held on November 10, 2021. A link to the agenda and cases will be provided in the next bi-weekly Planning Department report.

TRANSPORTATION & ENVIRONMENTAL SUSTAINABILITY ADVISORY COMMITTEE (T&ES) – 4th Wednesday

At the October 21, 2021 T&ES Committee meeting two presentations were made: 1) Mike Foley, from the Cuyahoga County Department of Sustainability on the County's Shared Mobility Program and 2) Nancy Levin, from the Public Library, on the Noble Road Library expansion plans. A number of other items were discussed, including: traffic calming efforts, upcoming grant opportunities, environmental sustainability topics for future discussion, reduction of speed limits, as well as the status of the Cedar-Lee-Meadowbrook redevelopment project. The next T&ES meeting will be held on December 1, 2021. A link to the agenda will be provided closer to the meeting date.

CITIZENS ADVISORY COMMITTEE (CAC) – 3rd Tuesday

On October 19, 2021, the CAC met to adopt their recommendations on the Year 48 Funding Applications. Staff will present the recommendations to Council at the Committee of the Whole on November 1, 2021, which will allow a 30-day public comment period to open. Council will then need to hold a public hearing in December prior to adopting. The next CAC meeting will be held on November 16, 2021. A link to the agenda will be provided in the next bi-weekly Planning Department report.

RACIAL JUSTICE TASK FORCE

The Racial Justice Task Force and its three subcommittees have continued to refine their work plans. The Housing and Economic Opportunity Subcommittee met on October 20, 2021 to discuss issues facing renters. The Public Safety Subcommittee met on October 13th. The Health, Wellness and Education Subcommittee will have met on October 27th. The next full Racial Justice Task Force meeting will have been held on October 27, 2021. A link to the agenda can be found here:

<https://www.clevelandheights.com/DocumentCenter/View/9865>



CLEVELAND HEIGHTS

To: Susanna Niermann-O'Neil, City Manager

From: Annette M. Mecklenburg, Chief of Police

Date: October 25, 2021

Subject: Police Department Update

Crime Update

On October 21, 2021, at 5:37 pm a robbery was reported at Norfolk and Cedar Roads. According to the victim, she was sitting in her vehicle in the parking lot when three male suspects approached. One of the males brandished a handgun and asked for her cell phone and car keys and the victim complied. The victim exited the vehicle at which time one of the suspects got into the car and drove away. The other two suspects got into a white vehicle and followed behind her vehicle. The vehicle taken was a blue Mazda CX5 with Michigan plates BBT320. The suspect with the gun was described as medium height, thin build wearing a face mask and green hooded sweatshirt. The second suspect was described as medium height, thin build, wearing a face mask and white hooded sweatshirt. The third suspect was also medium height, thin build, wearing a face mask and black hooded sweatshirt. Detectives are investigating.

During the early morning hours of October 21, 2021, a male broke into Toyota Motorcars by breaking a window pane on the garage door. Once inside, the male stole a 2014 Toyota Sienna. A short time later he returned and stole a 2007 Toyota Tundra. A photo of the suspect was obtained from video surveillance inside the business and posted on social media. The story was picked up by media outlets and tips were received possibly identifying the suspect. Detectives are currently following up on the information.

On October 23, 2021, around 1:30 am the CHPD received a call from a resident in the 2200 block of Chatfield reporting a suspicious male attempting to gain entry to a residence. The residents were alerted by their surveillance camera of a male on the back porch attempting to open the main door to the house. The male was described as a black male, 25-35 years old, wearing a light-colored jacket, jeans, surgical mask, baseball cap and boots with reflective material on the back. Officers quickly responded to the area but were unable to locate the male.

Community Events

Lee Road Halloween Festival – On Saturday, October 23, 2021, Officers from the CHPD participated in Candy Crawl on Lee Road from 4:00 pm – 7:00 pm. Hundreds of kids showed up for this year's event and Officers had a great time meeting and talking with all who participated.

Halloween Safety Tips – The following safety tips for trick-or-treating were posted on Facebook and NextDoor this week.

Walk safely and always cross the street at corners using traffic signals and crosswalks. Be sure to look left, right and left again when crossing. Always walk on sidewalks when possible. If there are no sidewalks, keep as close to the curb as possible.

Watch for cars turning and backing out of driveways. Decorate costumes and bags with reflective tape or stickers and if possible, wear light colors. Have kids carry glow sticks or flashlights to help them see and be seen by drivers. When selecting a costume, make sure it is the right size to prevent trips and falls.

For those who will driving on Halloween night, slow down and be especially alert in residential neighborhoods. Children are excited when trick-or-treating and may move in unpredictable ways. Enter and exit driveways slowly and carefully. Take extra time to look for kids at intersections, especially when turning, on medians, and on curbs.

Prescription Drug Take Back – On Saturday, October 23, 2021, the CHPD participated in the national prescription drug take back day. Officers were on hand from 10:00 am – 2:00 pm to accept unwanted, unused and expired prescription drugs to ensure that they are properly disposed of. These drugs, if they fell into the wrong hands, could easily have resulted in deadly consequences. Officers collected 12 boxes of prescription drugs totaling nearly 180 pounds.



No Shave November – This year members of the CHPD are proudly participating once again in No Shave November. For a donation of \$50.00 Officers will be permitted to grow a beard during the month, so long as it is kept neatly trimmed and professional. This year we will be joining several other area Police Departments in donating to “A Special Wish Foundation, Inc. Cleveland Chapter.” 100% of the donations go directly to children battling life-threatening illnesses. These children are receiving treatment at Cleveland Clinic Children’s Hospital, Akron Children’s Hospital and UH Rainbow Babies & Children’s Hospital. Additional information will be made available through social media outlets for those wishing to join us in raising funds for such a wonderful cause.



Date: October 26, 2021

To: Susanna Niermann-O'Neil, City Manager

From: Collette Clinkscale, Director of Public Works

Subject: Public Works Update

Sanitary Sewer Evaluation Survey

Requirements		Due
Phase 1 SSES	CCTV - 393,658 LF	Complete
Phase 2 SSES	CCTV - 224,792 LF	Complete
Phase 1 SSES	1,980 Manhole Inspections	Complete
Phase 2 SSES	1,125 Manhole Inspections	Complete
CMOM	132,000 LF/yr Pipe Cleaned	31-Dec-21
Model	Calibrated Model	Complete

Completed Through October 22, 2021

	<u>Completed Thru October 22, 2021 (LF)</u>	<u>Overall Remaining (LF)</u>	<u>Overall Remaining (%)</u>
CCTV Phase 1	395,097	-	-
CCTV Phase 2	224,792	-	-
MHs Phase 1	1,978	-	-
MHs Phase 2	1,115	-	-
Cleaning Total	727,525	-	-
Cleaning (2018) only	173,355	-	-

Cleaning (2019) only	304,188	-	-
Cleaning (2020) only	140,713	-	-
Cleaning (2021) only	109,269	22,731	17%

Work Completed by Entity

	<u>City</u>	<u>Contractor</u>	<u>County</u>
CCTV (Phase 1)	19% 75,464 LF	54% 215,287 LF	27% 104,346 LF
CCTV (Phase 2)	19% 41,959 LF	45% 101,854 LF	36% 80,979 LF
Cleaning (2021) only	16% 21,170	45% 58,813 LF	22% 29,286 LF
Cleaning Total	28% 202,420	45% 332,964 LF	27% 192,141 LF

Model Update

Tasks	% Complete
1. Flow and rainfall Analysis	100%
2. Model Expansion in GIS	100%
3. Model Expansion in Infoworks ICM	100%
4. Delamere - Model Setup	100%
5. Delamere - DWF and WWF calibration	100%
6. Delamere - Capacity evaluation	100%
7. Delamere - Alternative development	100%
8. DWF and WWF Calibration for all flow meters	100%

Sewer Division

The sewer maintenance division has been working on cleaning and televising to meet the CD deadline for 2021. In addition, crews have been working on repairing brickwork relating to catch basins throughout the City during the month. Over the past 3 weeks the sewer division took over road hole cutouts and repairs from the street maintenance division to allow them to concentrate on hauling the remaining leaves and brush from spring cleanup and to ready for fall loose leaf collection.

Refuse & Recycling Division

Monday, November 1st is bulk collection week. Bulk collection week is the first “full” week of the month (Monday-Friday (Saturday in the event of a holiday) Each resident can place up to four bulk items out for collection on their regularly scheduled collection day. Additional bulk items and non-bulk day pick-ups can be scheduled for a fee of \$10/item by using the following link below.

www.clevelandheights.com/bulkbrushrequest

Refuse Automation Update

We are working with our marketing staff to arrange for an updated post card mailing to all our residents informing them of the delay that we are experiencing. The sample of the card is below. A message regarding the delay will also appear on the quarterly utility bill.



Street Maintenance Division

The street maintenance division has been working in full force hauling leaves from our staging area at the cemetery in preparation for 2021 leaf season which will kick-off next Monday, November 1st.

Residents can view the leaf collection app to find out when we will be in your neighborhood as well as find a daily updated progress map on the ClevelandHeights.com homepage.

Fall Loose Leaf Collection Procedure

Fall loose leaf collection starts on November 1st and runs through December 3rd this year. All neighborhoods receive 2 collections during this period. Either the 1st and 3rd week or the 2nd and 4th week of the month. When leaf collection is scheduled in your neighborhood, it generally runs the day after trash collection day. The City has a leaf collection app on the City's homepage for residents to utilize so they know when City crews are scheduled on their street. The City generally stays on schedule the first 2 weeks of the month; however, weather can be a factor thereafter. The leaf collection map is updated daily to account for schedule changes. The City terminates bagged yard waste collection on October 31st and requests that all loose leaves be raked to the tree lawn for fall leaf collection. Loose leaves and bagged yard waste are processed differently and staged and disposed of at different locations. The City pays for disposal of bagged yard waste and currently disposes of loose leaves at no charge.

In order to complete the routes on time, the City uses the entire streets division and all available staff and needed equipment from other Public Works divisions and the Parks Department. It takes approx. 28 employees to complete the season on time. Residents are strongly advised to follow the schedule as the same street division employees and equipment used for leaf season are used for snow removal. It becomes difficult to go back for leaves under these conditions.

As a reminder, spring loose leaf cleanup is performed in April of each year. The City accepts bagged yard waste from May 1st through October 31st.

#21-02 – 2021 Street Resurfacing & ADA Curb Ramp Replacement Program

The contractor still has a few remaining items to complete. They have had some issues with COVID-19. They had seventeen employees out at one time with COVID-19 and/or possible exposure to the virus.

#21-03 – 2021 Surface Treating Program

The contractor will have to return in the late spring of 2022 to complete the fog sealing. They have experienced some equipment related issues which delayed their progress.

#21-06 – Superior Road Rehabilitation

The project limits for this project is on Superior from Washington Blvd. to S. Taylor. Terrace Construction will begin work this week staging and laying down pipe. Work on constructing and connecting the temporary water main bypass will begin immediately thereafter. A notice will be mailed to those affected households. The goal is to get as much of the project completed before the weather gets too bad.

Forestry Division

Tree planting season is underway. Residents interested in having a tree planted should contact the Division of Forestry at 216-691-7317.



CLEVELAND HEIGHTS

City Council

Public Hearing on

**Ordinance No. 70-2021 – Proposed Changes to the Zoning Code with Regards to Garages
and Other Ancillary Changes**

November 1, 2021

6:00 p.m.

Agenda

1. Open Public Hearing
2. Staff Presentation
3. Public Comment
4. Council Comment
5. Close Public Hearing



MEMORANDUM

To: Mayor Stein and Members of Council

Cc: Susanna Niermann O'Neil, City Manager
William Hanna, Director of Law

From: Eric Zamft, Planning Director

Date: For November 1, 2021 Public Hearing

Subject: Public Hearing Regarding Proposed Zoning Text Amendments to Part Eleven – Zoning Code of the Codified Ordinances of Cleveland Heights Regarding Private Parking Garages and Other Ancillary Changes; Consideration of Adoption

Per the request and direction of Council, staff prepared proposed Zoning Text Amendments to Part Eleven – Zoning Code of the Codified Ordinances of Cleveland Heights Regarding Private Parking Garages and Other Ancillary Changes. This was all presented to Committee of the Whole on June 14, 2021 and Council referred the matter to the Planning Commission that same night.

The proposed zoning text amendments were transmitted to the Planning Commission and discussed at the June 29, 2021 Planning Commission meeting. At the August 19, 2021 Planning Commission meeting, the Planning Commission recommended that the zoning text amendments be approved, with suggested revisions for Council to consider. Attached to this memorandum is that recommendation. A number of comments from the public were received and are included as part of this memorandum as well. As you will see, outside of a comment on September 30th, there have not been any additional comments since the Planning Commission recommendation.

Following the procedures of Chapter 1119 of the Zoning Code, the next step is for Council to hold a public hearing. A public hearing was originally scheduled for September 30, 2021, but was cancelled due to the lack of a quorum. It was then rescheduled for November 1, 2021 to comply with Chapter 1119 and the noticing requirements.

The purpose of the meeting is for Council to hold a public hearing on the proposed zoning text amendments. Staff will present the Planning Commission's recommendation.

Per Section 1119.07, “[a]fter the public hearing, Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof.” Should Council wish this could occur on November 1, 2001 during Council’s regularly scheduled meeting, after the close of the public hearing.

Staff Recommendation

Council should open the public hearing. Despite the support by one commentator for staff's originally proposed amendments, after hearing public comment and closing the public hearing, staff recommends adopting Ordinance No. 70-2021, as suggested to be modified by the Planning Commission.

Attachments

***City of Cleveland Heights
Planning Commission***

PLANNING COMMISSION RECOMMENDATION

TO: Mayor Stein and Members of City Council

FROM: Eric Zamft, Director of Planning; Karen Knittel, Assistant Director of Planning

CC: Susanna Niermann O'Neil, City Manager; William Hanna, Law Director;

DATE: August 20, 2021

SUBJECT: Proj. 21-06 regarding Ordinance No. 70-2021: Suggested Revisions to Proposed Zoning Text Amendments to Part Eleven – Zoning Code of the Codified Ordinances of Cleveland Heights Regarding Private Parking Garages and Other Ancillary Changes

On June 29, 2021 and August 19, 2021, the Planning Commission held public meetings on Proj. 21-06. The Planning Commission review of the proposed zoning text amendments resulted in a recommendation that Council adopt the proposed zoning text amendments with a number suggested revisions. The suggested revisions are highlighted in yellow as attached to this recommendation and are summarized below.

1. The Planning Commission suggests that page numbers be added to the proposal for ease of reference.
2. The Planning Commission suggests that the measurement of regulations and standards throughout the Code be included.
3. In response to the concerns about the removal of private parking garages that are not within the context of investment into a property and possible abuse of the flexibility, the Planning Commission suggests that the requirement to have enclosed private parking spaces remains, but that clear exceptions are provided to allow for the flexibility intended in the initial proposal, as follows:
 - The language of Section 1123.12(f) regarding supplemental standards for enclosed parking spaces on Page 13 is suggested to be revised.
 - The standards for Single-family dwellings, Two-family dwellings, Townhouses in Schedule 1161.03 on Page 19 are suggested to be revised to reimpose that some or all of the required parking spaces would need to be enclosed – unless there is an exemption.
 - Both multi-family dwellings and senior citizen apartments in Schedule 1161.03 on Page 19 are suggested to not have a requirement to enclose parking.
 - A note ('a') is suggested to be added to Schedule 1161.03 on Page 20 that provides the Planning Commission the ability to reduce the number of parking spaces and those that need to be enclosed.
 - Note ('b' and 'c') are suggested to be added to Schedule 1161.03 on Page 20 that refers to a new section on exemptions.
 - A new section, 1161.051 is suggested to be added that provides provisions for exceptions to the required enclosed parking spaces. This new section:
 - Would require review and approval by the Planning Commission
 - Provides an exception if the parcel is a legal, non-conforming lot that does not have the requisite minimum lot area or lot width to accommodate a Code-conforming private parking garage.
 - Provides an exception if special conditions exist specific to the lot that are not applicable generally to other lots in the same Zoning District that render a Code-conforming private parking garage impractical.

- Provides an exception if the previously existing private parking garage on the lot was a single-car garage for single-family dwelling.
- Provides an exception if an existing private parking garage structure and associated remnant parking pavement are proposed to be removed and replaced with grass or landscaping, thereby increasing green or open space.
- Provides an exception if a substantial expansion or addition to the principal structure is proposed.
- Requires a Landscape Plan and compliance with all other City provisions

4. In response to the concern about working on vehicles outside of private parking garage, the Planning Commission suggests that the definition of "Junk motor vehicle" is proposed to be slightly revised on Page 1 to reflect this.
5. In response to questions about how carriage houses were treated in the context of changes to garages, the Planning Commission suggests that a definition be added that defines an "Existing carriage house" on Page 1. In addition, the definition of "Garage, parking" is suggested to be revised to state that an existing carriage house is not considered a parking garage.
6. After further review, the Planning Commission felt that there needed to be more clarity on how to define the façade of the primary structure. To that end, definitions are suggested to be added for "Façade" and "Primary structure" on Page 1.
7. After further review, the Planning Commission felt that there was potential confusion and conflict between the role of the BZA and the Planning Commission in reviewing private parking garages and the associated standards. Ultimately, any property, use, or potential project within the City has the ability to appeal to the BZA for relief and there is, therefore, no need to include specific reference to garages and commercial parking exemption in the BZA powers. To that end, is it suggested that Section 1109.06 on Pages 2 and 3 be revised to remove those specific references.
8. After further review, the reference of use with regards to yard requirements appears to be incorrect; rather it is more appropriately related to buildings or structures. Therefore, it is suggested that the references as such in Section 1121.12 on Page 5 and 7 be revised. Other changes to this section are also suggested to remove those items that are uses. In addition, coverage requirements for fences are suggested to be removed and excluded, see Page 7.

Attachment (Exhibit A – Ordinance No. 70-2021 with Planning Commission's suggested revisions highlighted)

Definitions**1103.03 DEFINITIONS OF GENERAL TERMS**

- (42) "Fence" means any structure composed of wood, iron, steel, masonry, stone or other material and erected in such a manner and in such location as to enclose, secure, partially enclose or secure, provide privacy, decorate, define or enhance all or any part of any premises. Trellises or other structures supporting, or for the purpose of supporting, vines, flowers and other vegetation, when erected in such a position as to enclose all or any part of the premises or otherwise satisfy the intent of this definition shall be considered a fence
- (44) "Floor area of a dwelling unit" means the sum of the gross horizontal areas of a building devoted to residential use measured from the exterior faces of exterior walls or from the center line of common walls separating two (2) dwelling units. "Floor area of a dwelling unit" shall not include unfinished basement, attached parking garage, attic, terraces, breezeways, open porches and covered steps.
- (49) "Garage, parking" means a principal or accessory building or an enclosed space within the principal building in which motor vehicles owned by the general public are parked, including facilities operated as a business enterprise with a service charge or fee paid to the owner or operator of such facility, with no facilities for mechanical service or repair of a commercial or public nature. Parking garage may be attached or detached and shall be considered enclosed parking spaces. A "parking deck" shall be considered a parking garage. An "existing carriage house" shall not be considered a parking garage.
- (50) "Garage, private parking" means a detached accessory building or an attached portion of the principal building designed to store motor vehicles and other normal household accessories of the residents of the principal building, with no facilities for mechanical service or repair of a commercial or public nature. "Private parking garage" shall be considered enclosed parking spaces.
- (60) "Junk motor vehicle" means any motor vehicle, licensed or unlicensed, without regard to its age or value, that is parked in any unenclosed area of any portion of a yard or lot, with or without the consent of the owner of the property, for a period of seventy-two hours (72) hours or longer, when such motor vehicle is apparently inoperable, or is in such condition that it could not be legally operated on the public streets, or is in an extensively damaged, dilapidated or disassembled condition. Junk motor vehicle shall include "abandoned junk motor vehicle" as defined by Ohio R.C. 4513.63.
- (84) "Parking lot" (See also garage, parking) means an area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.
- (XX) "Accessory parking space" means an open or enclosed area, accessible from a street, for parking motor vehicles of owners, occupants, employees, customers, or tenants of the main building or use.
- (XX) "Existing carriage house" means an existing, nonconforming accessory residential dwelling unit that was legally constructed or created prior to the adoption of this Zoning Code.
- (XX) "Façade" means any exterior wall of a structure, including projections from and attachments to the wall that are architecturally integrated into the structure. Projections and attachments shall include, but are not limited to, balconies and porches.
- (XX) "Primary structure" means a structure having a roof supported by columns or by walls and

intended for the shelter, housing, enclosure, or storage of persons or property. A primary structure shall include, but is not limited to porches, dwellings, principal buildings. A private parking garage, patio, or deck shall not be considered a primary structure.

BZA**1109.06 POWERS AND DUTIES OF THE BOARD**

For the purpose of this Zoning Code, the Board of Zoning Appeals is given the following powers and duties:

- (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Zoning Administrator in the administration or enforcement of this Zoning Code.
- (b) To authorize such variances from the terms of this Zoning Code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of this Code will result in practical difficulty or, in the case of a use variance, unnecessary hardship, and so that the spirit of this Code shall be observed and substantial justice done. Specifically, variances shall be reviewed according to the criteria set forth in Section 1115.07(e) and may be granted as guided by the following:
 - (1) Vary the yard or height regulations for a permitted principal or accessory building or structure where there is an exceptional or unusual physical condition of a lot when the condition is not generally prevalent in the neighborhood and which, when related to the yard regulations of this Zoning Code, would prevent a reasonable arrangement of buildings on the lot.
 - (2) Vary the sign regulations where topography or existing buildings interfere with usual visibility under such conditions, including time limits, as the Board may deem necessary in order to prevent the granting of a special privilege.
 - (3) Vary the lot area or lot width requirements where there is an exceptional or unusual physical condition of a lot, when the condition is not generally prevalent in the neighborhood.
 - (4) Vary the garage door requirements in multiple-family uses only, in exceptional or unusual circumstances, taking into consideration the following physical factors:
 - A.The topography, including the grade of lane where the building and accessory garage are situated and the entryway to the garage or garages;
 - B.The maneuvering space available to enter the parking stall;
 - C.The number of garages involved;
 - D.Design and usage of the garage structure; and
 - E.All other applicable factors included within Section [1109.06](#)(b) hereof.
 - (5) Vary the applicable off-street parking requirement established in Section 1161.03, or as reduced for shared facilities pursuant to Section 1161.04, or as modified by the Planning Commission as a conditional use pursuant to Section 1161.05, when there are exceptional or unusual circumstances that result in practical difficulty in complying with the requirements.

- (c) To resolve any disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria of Section 1105.05.
- (d) To adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business and the exercise of its powers.
- (e) To allow or permit the expansion or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming uses will result in unnecessary hardship.
- (f) To grant special exceptions from the off-street parking requirements for new uses in new or expanded buildings in certain major commercial districts, according to the criteria set forth in Section 1115.13 and Section 1161.13(a)(2)Reserved.
- (g) To grant special exceptions to provide a reasonable accommodation as required by state and/or federal law, according to the criteria set forth in Section 1115.13.

AA and A (SF) and B (2-Family)**1121.04 CONDITIONALLY PERMITTED USES**

The categories of conditional uses which may (together with their accessory uses) be permitted in the AA and A Single-Family and B Two-Family Residential Districts, provided they conform to the conditions, standards, and requirements of Title Seven and are approved for a particular zoning lot in accordance with the administrative provisions of Section 1115, shall include the following:

- (j) Public parking (surface parking lot, parking deck, or one-story covered parking garage) as a principal use for a permitted use not on the same lot;
- (k) Accessory parking spaces for a commercial use, contiguous with a C-1, C-2, C-2X or C-3 District S-1, or S-2 District, as regulated in Code chapter 1153.05(f) & 1161;
- (l) Accessory parking for a multi-family use contiguous with MF-1, MF-2, MF-3, S-1, S-2, a C-1, C-2, C-2X or C-3 District as regulated in Code chapter 1161;(Intentionally omitted);

1121.05 ACCESSORY USES.

Accessory buildings, structures, and uses subject to the regulations in Section 1121.12 and as noted are permitted in association with and subordinate to a permitted or conditionally permitted use in the AA and A Single-Family and B Two-Family Residential Districts and are limited to the following:

- (a) Private parking garages and related residential off-street parking subject to the regulations of Chapter 1161;
- (b) Signs subject to the regulations of Chapter 1163;
- (c) Home occupations in a dwelling unit subject to the regulations of Section 1165.02(b);
- (d) Swimming pools and associated pool house;
- (e) Porches, decks, arbors, patios, and gazebos;
- (f) Storage shed, and other similar buildings for the storage of domestic supplies;
- (g) Fences;
- (h) Noncommercial greenhouse not to exceed twenty-five percent (25%) of ground floor area of the principal building;

- (i) Vegetable/edible and flower gardens;
- (j) Children's play equipment;
- (k) Gatehouse, guard house;
- (l) Parking of non-passenger vehicles subject to the regulations of Section 1165.02(c);
- (m) Parking of recreational vehicles subject to the regulations of Section 1165.02(d);
- (n) Portable on-demand storage structures, subject to the regulations of Section 1165.02(f);
- (o) Rain barrels and above-ground cisterns;
- (p) Laundry clotheslines;
- (q) Ornamental pool; and
- (r) Compost bins subject to 1121.12(po) of this Code.; and
- (s) Chicken coop subject to 1153.05(gg) of this Code.

1121.09 DWELLING UNIT REQUIREMENTS.

In order to provide healthful living conditions and to preserve the character of the neighborhood, dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the following standards establishing minimum floor areas of dwelling units and required garage space.

(a) Minimum Area of Dwelling Unit. The minimum floor area of a dwelling unit shall not be less than specified below. For the purpose of determining the minimum floor area, porches, steps, terraces, breezeways, attached parking garages, or other attached structures not intended for human occupancy shall be excluded.

District	Type of Dwelling	Minimum Floor Area Per Dwelling Unit (In Square Feet)
AA	Single Family	2,000
A	Single Family	1,500
B	Single Family	1,500
B	Two Family	1,000

(b) Enclosed Parking Spaces Required. Required off-street enclosed parking spaces shall be provided for each dwelling unit, either in a garage that is attached or detached and accessory to the dwelling unit in accordance with Schedule [1161.03](#). When 75% or more of a blockface have detached rear yard garages or attached garages with doors not visible on the street elevation, new attached garages shall have doors not visible on the street elevation. A new attached garage of a home on a corner lot may have garage doors visible on one of the streets. Furthermore, all parking areas shall be provided, designed and constructed in accordance with the accessory use standards in Section [1121.12](#) and the parking requirements in Chapter [1161](#).

1121.12 ACCESSORY USE REGULATIONS.

Accessory uses, buildings and structures permitted in AA, A and B Districts shall conform to the location, coverage and maintenance standards contained in this section. Attached private parking garages as part of a dwelling are subject to all yard requirements for a principal building

specified in Section 1121.08 and shall comply with the floor area regulations for private parking garages established in subsection (e) hereof.

(a) Minimum Yard Requirements for Accessory Uses. An accessory building or use structure permitted in an AA, A or B District shall be located as set forth in Schedule 1121.12(a),); howeverHowever, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in subsections 1121.12(b) through (i).

Schedule 1121.12(a)
MINIMUM YARD REQUIREMENT FOR ACCESSORY USES BUILDINGS OR STRUCTURES

Permitted Use, Structure, or Building	Yard in Which Permitted	Minimum Distance (in Feet) From			
		Rear Lot Line	Side Lot Line	Side Street (Corner Lot)	Principal Building
(1) Detached private parking garage	Rear	3(a)(i)	3(i)	25(b)	0
	Side	5(a)(i)	(c)(i)	25(b)	0
(2) Pool house, storage shed (o), other similar buildings	Rear only	5	5	(e)	0
(3) Swimming pool (above and below ground)	Rear and side	15	15	15(b)	5
(4) Deck, porch, handicap ramp, steps, hot tub, and similar structures exceeding 3 feet in height (f) (k)	Rear and side	5	5	(d)	0
	Front			See Section 1121.12(b)	
(5) Deck, patio, porch steps, ornamental pool, coldframe and similar structures not exceeding 3 feet in height (f) (k)	Rear and side	3	3	(d)	0
	Front			See Section 1121.12(b)	
(6) Fences exceeding 3 4 feet in height	Rear, and Sideside and corner side	(g)	(g)	(g)	0(g)
(7) Fences not exceeding 3 4 feet in height (k)	Front, side, and rear and corner side	0(g)	0(g)	0(g)	0(g)
(8) Sidewalk and driveway	Front, side and rear	3	3	NA	0
(9) Open parking areas for storage of noncommercial vehicles and recreational equipment (h) Reserved.	Rear only	3	3	NA	0
(10) Freestanding air conditioning machinery, emergency generator, above-ground components of geothermal energy systems, and other similar equipment	Rear and side, except not in required minimum side yard (see Section 1121.08) and standard screening, see note (m)				

(11) Rain Barrels and Above Ground Cisterns (j)	Rear and side, provide standard screening, see note (m)	(j)	(j)	(kj)	0
(12) Laundry clothesline	Rear only	3	3	NA	0
(13) Vegetable/edible gardens	(1l)	(1l)	(1l)	(1l)	(1l)
(14) Compost Bin(s) (n)	Side and Rear	3	3	N/A	3
(15) Chicken coop and run	Rear	10	10	N/A	10

- (a) When the rear yard of a corner lot abuts the side yard of an interior lot, a detached private parking garage shall be located no less than 10 feet from the rear lot line.
- (b) Or no closer to the side street than the principal building, whichever is greater.
- (c) Shall maintain the minimum dimension for the side yard of a principal use as specified in Section 1121.08.
- (d) See Section 1121.12(b).
- (e) Shall be no closer to the side street than the principal building, unless specifically permitted elsewhere in this Zoning Code.
- (f) "Height" of a deck, porch, ramp, or steps means the vertical distance from the average finished ground elevation to the top of the floor surface.
- (g) See Section 1121.12(i) for additional fence regulations.
- (h) See Section 1165.02(c) for parking of non-passenger vehicles. See Section 1121.12(k) for parking pad regulations Reserved.
- (i) The Zoning Administrator may approve reduced rear and side yard setbacks for a detached private parking garage, provided that in no event shall the Zoning Administrator approve setbacks less than those of an existing or previously existing detached private parking garage on the property and shall adhere to all applicable Building Code regulations.
- (j) See Section 1121.12(m) for additional regulations.
- (k) When in the front or corner side yard are permitted only with Architectural Board of Review approval.
- (l) See Section 1121.12(l) for additional vegetable/edible garden regulations.
- (m) Standard screening means a fence, masonry wall or evergreen hedge which is eighty (80%) or more solid and either six (6) feet high or a height adequate to screen the view from a person six (6) feet tall standing on a public street or on adjacent property.
- (n) See Section 1121.12(o) for additional compost bin regulations.
- (o) In a rear yard of 2,000 square feet in area or less, storage buildings shall be no closer than 3 feet from a rear or side property line.

...

- (d) Maximum Area and Rear Yard Coverage of Accessory Uses. The percent of rear yard covered by accessory uses, buildings and structures (limited to those permitted in Sections 1121.05 and 1121.12) and the maximum floor area of such accessory use, building or structure, shall not be greater than as set forth in Section 1121.12(d). The area of building, structure or pavement shall be the maximum area of land on which, or above which, such building, structure or pavement is constructed. The percentage shall be the area of building, structure

and/or pavement in ratio to the area of the rear yard. However, in no case shall an accessory use, building or structure exceed the maximum area set forth in Schedule 1121.12(d).

Schedule 1121.12(d)
MAXIMUM AREA AND REAR YARD COVERAGE

Permitted Use, Building or Structure	Maximum Percentage of Rear Yard Coverage		Maximum Area (in sq. ft.)		
	AA and A District	B District	AA District	A District	B District
(1) Accessory building	20(a)(c)(f)	30(a)(c)(f)	(d)	(d)	1,200(d)
(2) Accessory structures exceeding 3 feet in height (g)	15	15	2,000	2,000	2,000
(3) Pavement related to parking, including driveway	30(b)	30(b)	2,000	2,000	2,000
(4) Accessory structures not exceeding 3 feet in height, including sidewalks and patios (g)	60	60	6,500	4,000	4,000
(5) Total maximum rear yard coverage (e)	60	60	12,000	----	----

Notes to Schedule 1121.12(d)

- (a) Nonconforming lots may be permitted to have up to 40% rear yard coverage by accessory buildings subject to Zoning Administrator approval of landscaping and screening plan which addresses stormwater management and minimizes adverse impact on neighboring lots. Total rear yard coverage shall not exceed 70%.
- (b) Nonconforming lots may be permitted to have up to 40% rear yard coverage by pavement or unenclosed parking subject to Zoning Administrator approval of landscaping and screening plan which addresses stormwater management and minimizes adverse impact on neighboring lots. Total rear yard coverage shall not exceed 70%.
- (c) The Zoning Administrator may approve a lesser number of enclosed accessory parking spaces pursuant to Section 1161.03(a).
- (d) See also Section 1121.12(e) for maximum floor area of a private parking garage.
- (e) While each specific category (1-4) has a maximum size limitation, the total coverage of all accessory uses shall not exceed the area limit for the rear yard.
- (f) On a corner lot, a private parking garage may cover up to 60% of rear-yard area. Total permitted rear- yard coverage on a corner lot is 80% of rear-yard area.
- (g) For the purposes of maximum area and rear yard coverage, fences shall be excluded.

...

- (e) Supplemental Regulations for Enclosed Parking Spaces, Private Parking Garages, and Accessory Parking Spaces
 - (1) Maximum Floor Area of a Number of Private Parking Garages. A single-family dwelling shall be permitted no more than one (1) attached and one (1) detached parking garage. A two-family dwelling shall be permitted no more than one (1) attached and one (1) detached garage.

(2) Maximum Floor Area of Private Parking Garages. For a single-family dwelling, with the total maximum floor area of all parking garages shall be of 500 600 square feet plus one (1) additional square foot of parking garage area for every fifteen (15) square feet of lot area greater than 6,000 square feet. However, the area of the parking garage(s) shall not exceed 1,200 300 square feet. For a two-family dwelling, the total maximum floor area of all parking garages shall be permitted no more than one (1) attached and one (1) detached garage with a maximum floor area of 1,200 300 square feet.

(3) Design Standards for Private Parking Garages. When 75% or more of a blockface have detached private parking garages in the rear yard or attached private parking garages with doors not visible on the street elevation, new attached private parking garages shall have doors not visible on the street elevation. A new attached private parking garage of a home on a corner lot may have garage doors visible on one of the streets.

- a. Any attached private parking garage should be designed to be compatible and complimentary of the primary residence, including materials, color, roof design, and massing, and should not be the dominant structure on the site.
- b. Any attached private parking garage shall be located at least five (5) feet behind the front façade of the primary structure. A new attached private parking garage on a corner lot shall be set back at least five (5) feet from the façade of the primary structure on the side that contains the driveway.
- c. The garage doors of any private parking garage may face the street, side, or rear property lines.

Attached or built-in private parking garages as part of a single-family dwelling are subject to all yard requirements for a principal building specified in Section 1121.08 and shall comply with the floor area regulations for private parking garages established in subsection (e) hereof.

Any attached private parking garage should be designed to be compatible and complimentary of the primary residence, including materials, color, roof design, and massing, and should not be the dominant structure on the site.

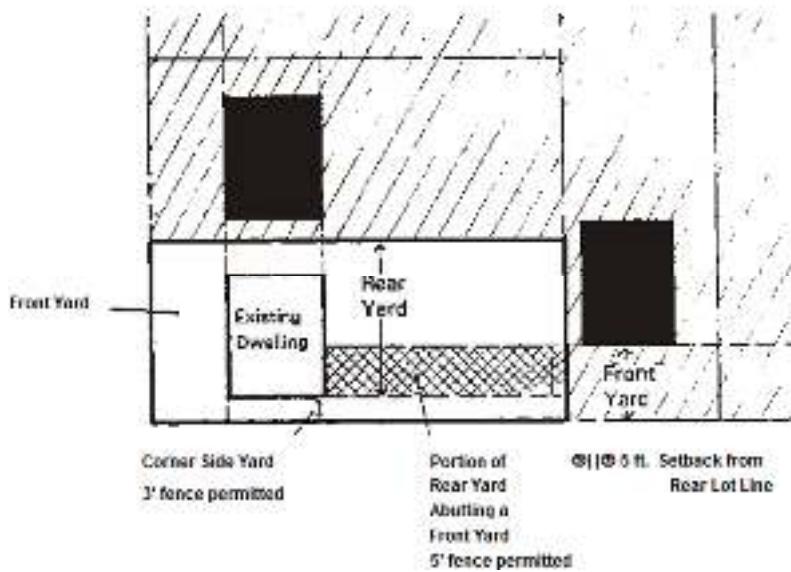
(1) All accessory parking spaces, whether enclosed or open, shall be provided, designed and constructed in accordance with the accessory use standards in Section [1121.12](#) and the parking requirements in Chapter [1161](#).

(i) Fences. Fences and walls to be erected, placed and maintained on a lot shall be approved by the Zoning Administrator and a fence permit issued unless otherwise noted. The appearance and height of fences shall be regulated and limited by its location on the lot as follows:

- (1) A fence or wall located in a front or corner side yard shall have a maximum height of four (4) feet above ground level and shall require Architectural Board of Review approval. Fences within ten (10) feet of an intersection shall comply with Section 1165.03(e) and shall require Architectural Board of Review approval.
- (2) Except as limited in subsection (i)(5) hereof, fences and walls located in a side or rear yard shall not exceed seven (7) feet above ground level provided that a fence or wall may be located parallel to a principal building no closer than a distance equal to the height of the fence or wall.

- (3) When a side yard fence having a length greater than ten (10) feet is parallel to and visible from the street, it shall be landscaped according to an approved landscape plan.
- (4) A fence or wall located in a side yard of a corner lot shall have a maximum height of six (6) feet above ground level and shall require Architectural Board of Review approval. In the portion of the rear yard of a corner lot which abuts the front yard of an interior lot, a fence no greater than five (5) feet in height may be located in such rear yard provided it shall be no closer than five (5) feet to the rear lot line and shall be landscaped according to an approved landscape plan. The fence shall be approved by the Architectural Board of Review.
- (5) The side of a fence closest to the adjacent property line and facing outward from the yard being fenced shall be the smooth finished side. All structural members shall be on the interior side of such fence.
- (6) No chain link, or mesh, wire, fence or barbed wire fence shall be constructed in a front yard or corner side yard.
- (7) Deer net fencing - no fence permit required:
 - A. Deer net fencing around vegetable/edible and flower gardens is permitted in rear and interior side yards, and is limited to a maximum height of seven feet, including all posts.
 - B. Proper installation is required, including six inches of the fence grid flared onto the ground to prevent deer from pushing underneath the fence.
 - C. Deer net fencing is permitted in community gardens with no location limitations.
- (8) Chicken coops and runs - no fence permit required. See Code Section 1153.05(gg).

**ILLUSTRATION OF FENCE REGULATIONS FOR
CORNER LOTS IN AA, A AND B DISTRICTS**
Section 1121.12(i)



(j) Residential Use of Existing Carriage House. In an AA or A District there shall be only one (1) dwelling unit on a lot except that an existing carriage house may continue as a nonconforming dwelling unit in compliance with the following:

- (1) The carriage house shall have been occupied (regardless of the length of time), designed for, constructed for, or intended for residential occupancy and legally constructed or created prior to the adoption of this Zoning Code.
- (2) Alterations to the carriage house shall be regulated by Section 1173.01(a) and (b).
- (3) For the purposes of this section, the occupants of the carriage house shall be considered as part of the family of the principal dwelling unit and shall comply with the family definition.

(k) Single Family and Two-Family Residential Parking Pad. In any District an AA, A, or B District, single-family and two-family dwellings are permitted to utilize a paved parking pad in addition to and/or as part of the required enclosed parking.

- (1) Parking pads may be located in the interior side or rear yard but must be located three (3) feet from any lot line. Parking pads are prohibited in the front and corner side yard or forward of the front building line.
- (2) Any driveways that access the parking pad are limited to twelve (12) feet in width and must meet the requirements of this Ordinance for single-family and two-family residential driveways.
- (3) The maximum coverage requirements for the lot may not be exceeded to accommodate a parking pad.
- (4) Paving pads must be surfaced and maintained in accordance with Section 1161.11(d). Paving with semi-pervious materials, permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete, is encouraged. However, a semi-pervious parking pad or driveway is still subject to the coverage requirements of each individual yard.

(l) Vegetable/Edible Gardens. Vegetable/edible gardens are allowed in all yards in the residential districts. Any vegetable/edible garden located in the front and corner side yard must comply with the following standards:

- (1) Vegetable/edible gardens must be kept weed-free between plants and rows.
- (2) There shall be no trash or debris in the vegetable/edible gardens.
- (3) Vegetable/edible gardens are required to be harvested on a regular basis.
- (4) The vegetable/edible gardens must be designed and maintained so that water and fertilizer will not drain onto adjacent property or the public right-of-way.
- (5) Use of insecticides made from synthetic chemical materials is prohibited. Acceptable alternatives, applied in accordance with established safe handling instructions, include rotenone, pyrethrin and Safer Soap.
- (6) The use of herbicides and weed killers is discouraged.
- (7) Areas of dry, loose soil that may be moved by wind must be covered by mulch or otherwise confined.
- (8) Vegetable/edible gardens fences shall meet the standards of subsection 1121.12(i) above.

...

(p) Driveways. In addition to the location and coverage regulations set forth in this section, residential driveways shall be subject to the following additional regulations:

- (1) Only one (1) driveway and one (1) curb cut shall be permitted per lot, except lots 100' feet wide or greater shall be permitted one (1) additional curb cut, which shall comply with Schedule 1121.12(a)(98); and.
- (2) Pavement width shall not exceed twelve (12) feet, except where necessary to provide direct access to a private parking garage or accessory parking space.
- (3) Pavement width for a single-car attached private parking garage shall comply with Section 1161.105.
- (4) Shared driveways are permitted in accordance with Code section 1161.105.

MF-1, MF-2, and MF-3 (MF)

1123.04 CONDITIONALLY PERMITTED USES

When denoted by the letter C, a use listed below is a conditional use which may (together with its accessory uses) be permitted in the MF-1, MF-2 and MF-3 Residential Districts provided it conforms to the conditions, standards and requirements of Title Seven and is approved for a particular zoning lot in accordance with the administrative provisions of Chapter 1115.

(j)	Parking deck or one-story private parking garage as a principal use for a permitted use that is not on the same lot	C	C	C
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1123.05 ACCESSORY USES

When denoted by the letter A, a use listed below is an accessory use permitted in association with and subordinate to a permitted or conditionally permitted use in MF-1, MF-2 and MF-3 Multiple-Family Residential Districts, subject to the regulations of Section 1123.12 and are limited to the following:

(a)	Private parking garages and related residential off-street parking, subject to the regulations of Chapter 1161.	A	A	A
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1123.10 DWELLING UNIT REQUIREMENTS.

In order to provide healthful living conditions and to preserve the character of the neighborhood, dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the following standards establishing minimum floor areas of dwelling units and required garage space.

(a) Minimum Area of Dwelling Unit. In a MF Multiple Family Residential District, the minimum floor area for a dwelling unit shall be not less than specified below. For townhouse and multi-family dwellings, where applicable, measurements will be made to the center line of party walls. All areas within private parking garages, porches, public halls and general storage rooms in multi-family dwellings shall be excluded in this measurement.

Minimum Floor Area (in square feet)		
District	By Type of Unit Townhouse/Cluster Development	Multi-family dwelling
MF-1	1,250	500
MF-2	1,250	500
MF-3	1,250	500

(b) Enclosed Parking Spaces Required. Enclosed parking spaces shall be provided for each dwelling unit in compliance with Chapter [1161](#), either in a garage that is attached to and integrated with or in a garage that is detached and accessory to the dwelling unit. When 75% or more of a block face have detached rear yard garages or attached garages with doors not visible on the street elevation, new attached garages shall have doors not visible on the street elevation. A new, attached garage of a multi-family dwelling on a corner lot may have garage doors visible on one of the streets. The first floor of a principal building containing dwellings shall not have more than 50% of any side yard or front yard building frontage comprised of garage doors. Furthermore, all parking areas shall be provided, designed and constructed in accordance with the accessory use regulations in Section [1123.12](#).

1123.12 ACCESSORY USE REGULATIONS.

Accessory uses, buildings and structures permitted in a MF Multiple-Family District shall conform to the regulations of this section.

(a) Minimum Yard Requirements for Accessory Uses. An accessory building or use permitted in an MF District shall be located as set forth in Schedule 1123.12(a).

Schedule 1123.12(a) MINIMUM YARD REQUIREMENTS FOR ACCESSORY USES

		Minimum Dimension in Feet Side/Rear Yard		
Permitted Accessory Use		Front Yard	Abutting MF, C or S District	Abutting AA, A or B District
(1)	Private parking garage and related accessory parking areas	NP	5	10

...

(d) Trash Receptacles. Trash receptacles shall be enclosed in an approved structure or be screened from view as required by 1166.10(a).

(e) Fences and Walls. Fences and walls shall comply with the regulations for fences and walls in AA, A and B Districts contained in Section 1121.12.

(f) Supplemental Regulations for Enclosed Parking Spaces, Private Parking Garages, and Accessory Parking Spaces.

- (1) Enclosed parking spaces shall be provided for each dwelling unit in compliance with Chapter [1161](#), either in an attached private parking garage that is integrated with or in a detached private parking garage that is accessory to the principal building.
- (2) **Design Standards for Private Parking Garages.** When 75% or more of a block face have detached private parking garages in the rear yard or attached private parking garages with doors not visible on the street elevation, new attached private parking garages shall have doors not visible on the street elevation. A new, attached private parking garage of a multi-family dwelling on a corner lot may have garage doors visible on one of the streets. The first floor of a principal building containing dwellings shall not have more than 50% of any side yard or front yard building frontage comprised of garage doors.
 - a. Any attached private parking garage should be designed to be compatible and complimentary of the primary structure, including materials, color, roof design, and massing, and should not be the dominant structure on the site.
 - b. Any attached private parking garage shall be located at least five (5) feet behind the front façade of the primary structure. A new attached private parking garage on a corner lot shall be set back at least five (5) feet from the front façade of the primary structure.
 - c. The garage doors of any private parking garage may face the street, side, or rear property lines.

All accessory parking spaces, whether enclosed or open, shall be provided, designed and constructed in accordance with the accessory use standards in Section [1123.12](#) and the parking requirements in Chapter [1161](#).

Commercial Districts (this would be C1, C2, C2X, C3)

1131.02 PRINCIPAL AND CONDITIONALLY PERMITTED USES.

- (a) Unless otherwise provided by law or in this Code, buildings, structures or land shall only be used or occupied following the adoption of this Zoning Code for the uses permitted herein. Schedule 1131.02, on the following page, enumerates those uses that may locate in a C-1 Office, C-2 Local Retail, C-2X Multi-Use and C-3 General Commercial District as a matter of right as a principal use, and those uses which may locate in a given district only upon obtaining a conditional use permit.
 - (1) A use listed in Schedule 1131.02 shall be permitted by right in a district when denoted by the letter "P" provided that all requirements of other City ordinances and this Zoning Code have been met.
 - (2) A use listed in Schedule 1131.02 may be permitted as a conditional use in a district when denoted by the letter "C", provided that the requirements of Title Seven have been met.
- (b) Although a use may be indicated as permitted or conditionally permitted in a particular commercial district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Code applicable to the specific use and parcel in question.

Schedule 1131.02
PERMITTED AND CONDITIONALLY PERMITTED USES IN COMMERCIAL DISTRICTS

<u>Land Use Category</u>		<u>C-1 Office District</u>	<u>C-2 Retail District</u>	<u>C-2X Multi-Use District</u>	<u>C-3 Commercial District</u>
(a)	<u>Residential Uses:</u>				
	(1) Multiple-family dwelling as a free-standing building	P			
	(2) Multiple-family dwelling units above the first floor in association with permitted commercial use	P	P	P	P
	(3) Lodging house and boarding house including convent, home for the aged, residential care facility, and other congregate living facility	C	C	C	C
	(4) Nursing home including intermediate and long-term care facility	C	C	C	C
	(5) Dormitories, fraternities, sororities	C	C	C	C
	(6) Live/Work Dwelling subject to the regulations of Section 1131.13	P	C	C	C
(b)	<u>Office/Professional/Medical Uses:</u>				
	(1) Offices provided that only samples of merchandise are displayed or stored in the premises	P	P	P	P
	(2) Financial establishment without drive-through facility	P	P	P	P
	(3) Financial establishment with drive-through facility	C	C	C	C
	(4) Financial establishment with Automatic Teller Machine (ATM)	C	C	C	C
	(5) Animal clinics, veterinary offices, animal training, animal grooming facilities, animal day-care facilities, overnight boarding of animals in conjunction with animal clinics, veterinary offices, animal grooming facilities and animal day-care facilities	C	C	C	C
	(6) Funeral homes and mortuaries				C
	(7) Hospitals	C			C
	(8) Urgent care clinics	C	C	C	P
(c)	<u>Retail/Service Uses:</u>				
	(1) Retail establishments in wholly enclosed buildings		P	P	P
	(2) Convenience retail and service establishments in an office building provided such business occupies no more than an area equal to 100% of first floor area	C	P	P	P
	(3) Personal services including dry cleaning, laundry, beauty salon, tattoo parlor, body piercing		P	P	P
	(4) Restaurants bar, tavern, nightclub		P	P	P
	(5) Catering		C	C	P
	(6) Outdoor dining facility		C	C	C
	(7) Drive-through facility in association with a permitted restaurant, retail or service use		C	C	C
	(8) Hotels	C	C	C	C

(d)	<u>Automotive Uses:</u>				
(1)	Automobile sales, new or new and used				C
(2)	Automobile rental				C
(3)	Truck, boat sales/rental				C
(4)	Gasoline station				C
(5)	Car wash establishment				C
(6)	Automobile service station - major and minor repair				C
(7)	Parking lot as a principal use		C	C	P
(8)	Parking deck or private parking garage as a principal use	C	C	C	PC
(e)	<u>Commercial Entertainment/Recreation Uses:</u>				
(1)	Indoor commercial entertainment facility including game room, bowling alley, skating rink, and movie theater		C	C	C
(2)	Private indoor and/or outdoor recreation including a health, tennis and racquet club		C	C	C
(3)	Dance studio, exercise class		C	C	P
(4)	Meeting room		C	C	P
(5)	Banquet hall, party center		C	C	P
(6)	Mural	P	P	P	P
(7)	Satellite dish receiving antenna	C	C	C	C
(f)	<u>General Commercial/Light Industrial Uses:</u>				
(1)	Shops and studios for custom work of making articles to be sold at retail on the premises		P	P	P
(2)	Printing and publishing		P	P	P
(3)	Storage and warehousing of goods, self- storage				C
(4)	Research & Development, Limited	P	P	P	P
(5)	Industrial Design	P	P	P	P
(6)	Nursery and garden supply with accessory outdoor storage		C	C	C
(7)	Greenhouse	C	C	C	C
(g)	<u>Educational Facilities:</u>				
(1)	Elementary, junior and senior high school	C	C	C	C
(2)	College, university, trade and training schools, adult education facilities	C	C	C	C
(3)	Day care center, preschool, tutoring center	C	C	C	C
(h)	<u>Community Facilities:</u>				
(1)	Public library, museum	C	C	C	C
(2)	Public safety facilities	C	C	C	C
(3)	Public service and maintenance facilities	C	C	C	C
(4)	Public parks and playgrounds	C	C	C	C
(5)	Outdoor community festival longer than 3 days	C	C	C	C

1131.03 ACCESSORY USES.

When denoted by the letter A, a use listed in Schedule 1131.03 is an accessory use permitted in association with and subordinate to a permitted or conditionally permitted use in a C-1, C-2, C-2X or C-3 Commercial District subject to the regulations of Sections 1131.08 and 1131.14(c).

Schedule 1131.03
PERMITTED ACCESSORY USES

Land Use Category	C-1 Office District	C-2 Retail District	C-2X Multi-Use District	C-3 Commercial District
(a) Off-street parking and loading facilities as required and regulated in Chapter 1161, including enclosed parking spaces, private parking garages, parking decks, and accessory parking spaces	A	A	A	A
(b) Signs as permitted and regulated in Chapter 1163	A	A	A	A
(c) Home occupations subject to the regulations of Section 1165.02(b)	A	A	A	A
(d) Enclosed storage building for incidental storage of goods and supplies sold on the premises		A	A	A
(e) Employee cafeterias	A	A	A	A
(f) Recycling collection station or trash receptacle enclosed in a principal building, in an approved structure or screened according to the regulations of Section 1166.10	A	A	A	A
(g) All accessory uses permitted within a Multiple-Family District in connection with permitted multiple-family dwellings	A			
(h) Retail and service establishments not to exceed an area equal to 50% of the first floor area of a permitted office or multiple-family building	A			
(i) Greenhouses*	A	A	A	A
* A Greenhouse is only permitted on the interior side yard or rear yard of a lot. In size, a Greenhouse shall not exceed 25% of the gross floor area of the principal building and shall never exceed 400 square feet.				

Notes to Schedule 1131.06

(b) See Section 1131.12 for supplemental regulations for private parking garages and parking decks that are principal uses.

1131.08 ACCESSORY USE REGULATIONS.

Accessory uses, buildings and structures permitted in a C Commercial District shall conform to the regulations of this section, and shall be landscaped and screened from view in accordance with Chapter 1166, as applicable.

(a) Off-Street Parking Lots. Off-street parking spaces in a parking lot may be located on the same lot as the principal use served, or may be located on a separate lot, or conditionally permitted in residential districts in accordance with Section 1161.11, provided:

- (1) Landscaping shall be accordance with Sections 1166.06 and 1166.07.
- (2) Parking shall not be permitted in front or corner-side yards or between a principal building and a public right-of-way. Drive aisles shall not be permitted between a principal building and a public right-of-way.
- (3) Surface parking lots that exclusively serve a specific principal use or uses to the exclusion of other principal uses in the districton a lot are limited to a maximum of sixty-two 62 feet in width. Width shall be measured along the edge of the parking lot that is closest to and parallel or roughly parallel to the street.
- (b) Location of Accessory Buildings/Structures. Accessory buildings and structures shall be located in a side or rear yard in compliance with the yard regulations for principal uses set forth in Schedule 1131.06.
- (c) Fences. Fences may be erected in any commercial district provided they comply with the following regulations:
 - (1) A fence located in a front yard shall have a maximum height of 48 inchesfour (4) feet above ground level.
 - (2) In a rear or interior side yard, a fence shall have a maximum height of seven (7) feet above ground level.
 - (3) In a corner side yard, a fence shall have a maximum height of 48 inchessix (6) feet above ground, except as required by Section 1166.07 for lots adjacent to a residential district, or unless set back 15 or more feet from the public right of way, in which case a fence shall have a maximum height of seven (7) feet above ground level.
 - (4) Any fence within 25 feet of a public right of way and parallel or approximately parallel to such street shall be approved by the Architectural Board of Review. No chain-link fencing shall be permitted in front or corner side yard.
 - (5) No barbed wire fence shall be constructed or erected on any lot. Any nonconforming barbed wire fence shall be removed following five years from the adoption of the amendment to this Zoning Code which made such fence nonconforming.
 - (6) A fence which has the sole purpose of enclosing a seasonal outdoor activity shall be removed during the times of the year when the seasonal activity is not in operation if it causes a nuisance or limits safe travel along public sidewalks.
 - (7) A pergola or other freestanding structure may be permitted in front of a building but not within the required front yard, subject to Architectural Board of Review approval.

1131.12 SUPPLEMENTAL REGULATIONS FOR PRIVATE PARKING GARAGES, AND OFF-STREET PARKING DECKS AND PARKING GARAGES THAT ARE PRINCIPAL USES.

Private parking garages, Off-street and parking decks and parking garages may be located on the same lot as the principal use, or may be located on a separate lot in accordance with Section [1161.06](#), and that are principal uses shall comply with the following standards:

- (a) All parking decks and private parking garages shall be approved by the Architectural Board of Review.
- (b) A parking deck or private parking garage shall comply with the yard requirements for a principal use specified in Schedule 1131.06 except that open parking decks and open private

parking garages in which vehicles are visible from the street shall be located not less than fifteen (15) feet from a public right of way.

(c) Open parking decks and open private parking garages shall be landscaped according to the requirements established in Section 1166.06.

Supplemental Standards for Conditional Uses

1153.03 SPECIFIC AREA, WIDTH AND YARD REGULATIONS

Schedule 1153.03
AREA, WIDTH AND YARD REGULATIONS
FOR CERTAIN CONDITIONAL USES

			Min. Yard Dimensions (in feet) Buildings (d) Parking					
Conditional Use		Min. Lot Area	Min. Lot Width (Feet)	Front	Side/Rear	Side/Front	Rear	See Also Section
(11)	Parking deck or one-story private parking garage for a permitted use not on the same zoning lot as a principal use	20,000 sq. ft.	100	30	15	N/A	N/A	---

1153.05 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

The following conditional use regulations are specific requirements pertaining to the location and maintenance of certain conditional uses and are in addition to the general criteria set forth in Chapter 1151 and the lot area, width and yard regulations set forth in Section 1153.03.

...

(h) Home Occupation in an Accessory Building. A home occupation in an accessory building may be conditionally permitted by the Zoning Administrator in any district provided that the following standards are met and maintained:

- (1) There shall be no display or other indication from the exterior that the building is being utilized for any nonresidential purpose, and the external appearance of the structure in which the use is conducted shall be compatible with the dwelling unit and neighboring residential structures;
- (2) There shall be no merchandise manufactured or processed for sale, bought, sold, exchanged or traded in or on the premises. A home occupation involving individual works of art and involving some machine process as part of the creation of individual works of art is permitted, provided it meets all other criteria of this section, and involves no direct sales of such works of art to consumers on a regular basis from the premises;

- (3) There shall be no person employed or engaged in the furtherance of the home occupation other than a member of the immediate family residing in the same dwelling unit as the home occupation;
- (4) There shall be no mechanical, electrical or chemical equipment used in furtherance of such home occupation, except such as causes no disturbances of any kind beyond the premises where the home occupation is located;
- (5) There shall be no storage of material, goods or equipment used for a business activity conducted off the premises;
- (6) There shall be no motor vehicles bringing clients or customers to the place of the home occupation other than for the periods from 9:00 a.m. to 5:00 p.m. on weekdays, and from 9:00 a.m. to 12:00 noon on Saturday. All such vehicles visiting the place of the home occupation shall be parked on private property;
- (7) No home occupation shall be permitted in any accessory building, or portion thereof, where the conduct of such home occupation is or will be offensive to neighboring property owners or occupants of the same dwelling structure by reason of excessive noise, late hours or business activity, the intensity of the business activity or other such reasons; and
- (8) No home occupation shall be permitted in that portion of a private parking garage that is required by this Zoning Code to provide enclosed parking spaces for a dwelling unit in fulfillment of the required accessory parking spaces for such dwelling unit by this Zoning Code.

...

- (aa) Attached Single-Family Dwelling Unit. Attached single-family dwelling units may be conditionally permitted in B, A, AA, and MF Districts in accordance with the following:
 - (1) In A, AA, and MF Districts, attached single-family dwelling units may be conditionally permitted only on lots which contain legally non-conforming side-by-side two-family dwellings.
 - (2) Each attached single-family dwelling unit must be on a separate parcel. When applicable, lots must be subdivided per Section 1111.06(b)(5).
 - (3) Attached single-family dwelling units shall be permitted only on corner lots on which each dwelling unit fronts upon a different street.
 - (4) Each attached dwelling unit shall have its own driveway and two-car garage provide the requisite number of accessory parking spaces per this Zoning Code.

Off-Street Parking and Loading Requirements

1161.03 NUMBER OF PARKING SPACES REQUIRED

The required number of off-street parking spaces for each facility or use shall be determined by application of the standards noted in Schedule 1161.03. For a use not specified in Schedule 1161.03, the Planning Commission shall apply the standard for a specified use which the Commission determines to be most similar to the proposed use.

Schedule 1161.03
REQUIRED OFF-STREET PARKING SPACES (a)

	Principal Building or Use	Minimum Spaces Required
(a)	Residential Uses:	
(1)	Single-family dwellings	2 spaces, of which both spaces shall be enclosed (a)(b)
(2)	Two-family dwellings	2 spaces for each dwelling unit, of which not less than .5 space both spaces per dwelling unit shall be enclosed (a) (b) (c)
(3)	Townhouses	2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed. (b)
(4)	Multi-family dwelling	1 space for each dwelling unit, of which not less than .5 space per unit shall be enclosed.
(5)	Senior citizen apartments	1 space for each dwelling unit, of which not less than 0.5 spaces per dwelling unit shall be enclosed.
(6)	Lodging house, boarding houses	1 space for each bed
(7)	Dormitories, sororities and fraternities	1 space for each 3 persons based on the maximum capacity as established in the Housing Code
(8)	Nursing homes	1 space per 3 beds
(b)	Office, Professional Service Uses: (b)	
(1)	Office, medical office, animal clinic and financial establishments	1 space for each 300 sq. ft. of floor area
(2)	Funeral homes, mortuaries	1 space for each 50 sq. ft. of floor area in parlors or service rooms
(3)	Hospitals	2 spaces per room
(c)	Retail/Service Uses: (b)	
(1)	Retail or business uses permitted in any C District, unless specific standards given below	1 space for each 300 sq. ft. of floor area
(2)	Furniture and appliance; retail nursery garden supply, establishments	1 space for each 500 sq. ft. of floor area
(3)	Restaurants; bars; taverns; night clubs	1 space for each 300 sq. ft. floor area (outdoor dining area excluded)
(4)	Hotels and motels	5 spaces plus 1 space for each sleeping room or suite
(d)	Automotive Uses: (b)	
(1)	Auto sales; new and used, auto, truck, boat sales, rental facilities	1 space for each 500 sq. ft. of floor area (indoor area only)
(2)	Gasoline stations	.5 spaces per pump +1 per 500 sq. ft. of accessory retail area
(3)	Car wash facilities	1 space per bay plus sufficient area for stacking spaces
(4)	Automobile service stations - major and minor repair	4 spaces per bay
(e)	Commercial Entertainment/Recreation Uses: (b)	

	(1)	Bowling alleys	2 spaces per each lane
	(2)	Game rooms	1 space for each billiard table or amusement device
	(3)	Skating rinks	1 space per 200 sq. ft. of floor area
	(4)	Indoor movie theaters, auditorium and other public assembly places	1 space for every 4 seats for first 400 seats then 1 space per 10 seats
	(5)	Golf course	4 spaces per hole
	(6)	Tennis or racquet ball court	2 spaces per court
	(7)	Indoor or outdoor swimming pools, public or private	1 space per 200 sq. ft. of water area
	(8)	Health, fitness, recreation club	1 space for every 200 sq. ft. of exercise area, including locker room, and equipment room
(f)	General Commercial Uses: (b)		
	(1)	Printing, publishing, storage and warehousing of goods	1 space for each 800 sq. ft. of floor area
	(2)	Research and testing laboratories	1 space for each 400 sq. ft. of floor area
(g)	Educational Facilities:		
	(1)	junior high schools, elementary schools and kindergartens	2 spaces per classroom +1 space per 15 seats in largest assembly hall
	(2)	Neighborhood high schools	2 spaces per classroom
	(3)	Regional high schools	5 spaces per classroom.
	(4)	Colleges, universities	10 spaces for every classroom
	(5)	Day Care Centers, preschools and similar uses	1 space for each staff person or employee plus a minimum of 2 pick-up/drop-off spaces
(h)	Community Facilities:		
	(1)	Places of worship	1 space for every 4 seats
	(2)	Community center, library, museum or similar public or private semi- public building	1 space for every 4 seats or for each 300 sq. ft. of floor area, whichever is greater

Notes to Schedule 1161.03:

- (a) Unless modified by the Planning Commission, per Section 1161.05.
- (b) Parking spaces shall be enclosed, except as otherwise provided in Section 1161.051.
- (c) At least 0.5 parking spaces shall be enclosed, except as otherwise provided in Section 1161.051.

1161.05 MODIFICATION OF NUMBER OF REQUIRED PARKING SPACES REQUIREMENTS.

Whenever the parking requirements based on functions and uses, and application of the standards specified in Schedule 1161.03 can be shown by the applicant to result in an excessive number of parking spaces and that a lesser number of spaces is appropriate and consistent with these regulations, the Planning Commission may approve a reduction in required spaces, as a conditional use according to the procedures set forth in Section 1115.08 and the criteria established in Section 1151.02.

1161.051 EXCEPTIONS TO REQUIRED ENCLOSED PRIVATE PARKING SPACES

Any application that will not be providing the requisite enclosed parking spaces as indicated in Schedule 1161.03 shall require review and approval by the Planning Commission based upon the regulations and criteria of this section.

- (a) Exceptions. The required off-street parking spaces for single-family dwellings, two-family dwellings, and townhouses shall be enclosed in a detached or attached private parking garage, as indicated in Schedule 1161.03, unless one (1) or more of the following exceptions can be substantiated:
 - (i) The parcel is a legal, non-conforming lot that does not have the requisite minimum lot area or lot width to accommodate a Code-conforming private parking garage.
 - (ii) Special conditions exist specific to the lot that are not applicable generally to other lots in the same Zoning District that render a Code-conforming private parking garage impractical.
 - (iii) If the previously existing private parking garage on the lot was a single-car garage for single-family dwelling.
 - (iv) If an existing private parking garage structure and associated remnant parking pavement are proposed to be removed and replaced with grass or landscaping, thereby increasing green or open space.
 - (v) If a substantial expansion or addition to the principal structure is proposed.
- (b) Landscape Plan Required. Any application that will not be providing the requisite enclose private parking spaces shall include a Landscape Plan that addresses stormwater management and minimizes adverse impact on neighboring properties, subject to Chapter 1166 of the Zoning Code.
- (c) All other provisions of City ordinances relating to zoning, demolition construction, use and maintenance of residential buildings shall apply, including, but not limited to, impervious surface coverage, yard setbacks, parking pad dimensions, driveway dimensions, parking requirements, and utilization of driveways for parking.

1161.08 PARKING OF JUNK MOTOR VEHICLES.

- (a) The outdoor parking of a junk motor vehicle on a lot shall be prohibited except as provided below. However, such a junk motor vehicle may be stored in an encloseda private parking garage, provided that in a residential district no business shall be conducted in connection therewith while such vehicle is parked or stored inside of the building.
- (b) The parking of a junk motor vehicle in connection with a conditional use in a commercial district may be permitted for a period not to exceed forty-eight (48) hours.

1161.105 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DRIVEWAYS.

- (a) For single-family and two-family dwellings, a residential driveway that provides access to a detached private parking garage is limited to twelve (12) feet in width. A driveway apron, the width of the private parking garage, as measured from the garage walls, is permitted to extend for a distance (depth) of twenty (20) feet from the garage doors before tapering back to the maximum driveway width of twelve (12) feet. For attached garages located twenty-five (25) feet or less from the lot line, the driveway is permitted to be the width of the

attached garage and no tapering is required on private property. However, the apron shall be a maximum of twelve (12) feet. (See Figure 1164.105(a)).

(b) For dwellings with a single-car attached private parking garage, the Zoning Administrator may approve the driveway width that provides access to the private parking garage and up to an additional nine (9) feet of width to provide for one (1) parking space that does not block the private parking garage. This width is permitted to extend for a distance of twenty (20) feet from the garage door before tapering back to the maximum driveway width of twelve (12) feet.

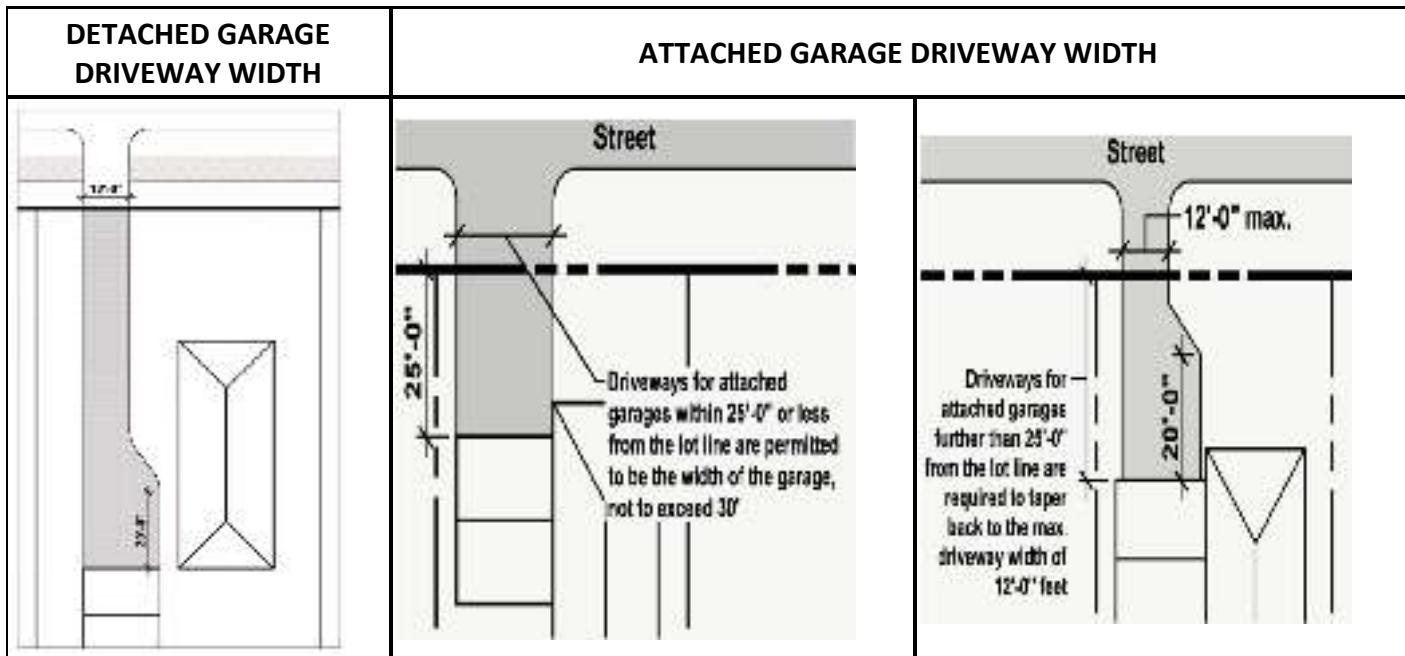
(c) Driveways must be located a minimum of three (3) feet from the side and rear lot line. However, a residential driveway may be shared by adjacent lots and constructed on the lot line. This shared driveway location is only allowed if agreed to by the owners of each lot.

(cd) All single-family and two-family dwellings are permitted to construct driveways that consist of two (2) paved wheel strips, each of which is a minimum of eighteen (18) inches wide and a minimum of twenty (20) feet long. A permeable surface, such as turf, must be maintained between such wheel strips. (See Figure 1161.105(cd): Paved Wheel Strips). All driveway aprons must comply with the construction and paving requirements of this Zoning Ordinance Code.

(de) Residential driveways must be surfaced and maintained in accordance with Section 1161.11(d). Paving with semi-pervious materials, such as permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete, is encouraged. A semi-pervious driveway is still subject to the coverage requirements of each individual yard. Gravel and wood chips are prohibited.

(f) For single-family and two-family dwellings, driveways may be used for accessory parking spaces for up to two (2) motor vehicles, so long as such driveway can accommodate vehicles without the vehicles extending over sidewalks, the street, or landscaped areas.

FIGURE 1161.105(a): RESIDENTIAL DRIVEWAY WIDTH



1161.11 IMPROVEMENT AND MAINTENANCE STANDARDS

- (j) Lighting. Wherever a parking lot, open parking deck, or open private parking garage is to be used during darkness, a system of floodlighting shall be installed to provide an adequate standard of illumination over the entire parking lot. All floodlights shall be shielded so that a minimum glare will extend to adjacent property and shall be in compliance with Section 1165.07.
- (l) Maintenance. A parking lot, open parking deck, or private parking garage shall be maintained in a manner to keep it as free as practicable from dust, paper and other loose particles, and snow and ice shall be promptly removed by the operator. All adjacent sidewalks shall be kept free from dirt, ice, sleet and snow and in a safe condition for use by pedestrians. All signs, markers or any other methods used to indicate direction of traffic movement and location of parking spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot or garage, shall be maintained in good condition throughout its use for parking purposes. All exposed concrete walls shall be painted or finished.

1161.13 EXCEPTIONS TO OFF-STREET PARKING REQUIREMENTS IN MAJOR COMMERCIAL DISTRICTS

- (a) In certain major the City's commercial districts, parking needs are predominantly met by the existence of significant amounts of on- and off-street public parking and, in some areas, large private parking areas serving multiple uses. This reduces the need for individual uses to provide their own dedicated off-street parking, as does the fact that many patrons of uses in

these commercial districts arrive on foot or by public transportation. Further, a large number of small parking lots would be disruptive in these areas, in which safe and pleasant conditions for pedestrians are important assets. On the commercial-district parcels described in subsection (b) below, the following exceptions to the off-street parking requirements set out in Chapter 1161 shall apply:

- (1) New uses in existing buildings that would not result in a significant change of intensity relating to traffic and parking shall not be required to provide off-street parking.
- (2) New uses in new buildings or existing buildings proposed to expand the with gross floor areas (GFAs) newly expanded by 25% or less that would not result in a significant change of intensity relating to traffic and parking shall not be required to provide off-street parking. more shall be required to either provide the required number of off-street parking spaces specified for the use or request that the Board of Zoning Appeals grant a special exception from the off-street parking requirement for that particular use. Without being required to determine that a practical difficulty, as set out in Section 1115.07(e)(1), exists on the property, and in accordance with the procedures set out in Section 1115.13, the Board is authorized to grant a special exception from the off-street parking requirement for a use, in whole or in part, if it can be shown that adequate parking will be available to serve the use and that the establishment of the use will not unduly reduce the amount of parking available to existing uses in the area. Conditionally permitted uses may also request a reduction in the off-street parking requirements through the Planning Commission, per Section 1161.05, as part of the conditional use review process.

(b) The exceptions to the off-street parking requirements, as described in subsection (a) above, shall apply only to commercially zoned parcels., or parcels on which commercial district regulations are in effect, in the Cedar Fairmount, Coventry and Cedar Lee commercial districts, and more specifically:

- (1) In the Cedar Fairmount commercial district, the parcels zoned C-2, C-2X or S-2 and located along Cedar Rd. between Euclid Heights Blvd. and Norfolk Rd.;
- (2) In the Coventry commercial district, the parcels zoned C-3, C-2, C-2X or S-2 and located along Coventry Rd. between Euclid Heights Blvd. and Mayfield Rd.;
- (3) In the Cedar Lee commercial district, the parcels zoned C-2, C-2X or S-2 and located along Lee Rd. between Derbyshire Road and Coleridge Road; and
- (4) All parcels zoned C-2, C-3, C-2X or S-2 that are contiguous to any of the parcels described above.

Additional Regulations Governing Uses

1165.02 SUPPLEMENTARY ACCESSORY USE REGULATIONS.

In addition to district regulations governing accessory uses, the following supplementary regulations set specific conditions for various accessory uses:

(a) Use of Accessory Building. No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the principal building on the lot is also being used. However,

nothing shall prevent the use by a contractor during building construction of a temporary construction shed or road wagon for the storage of tools, material and equipment.

(b) Home Occupations Accessory to a Dwelling Unit in a Residential District. A home occupation may be conducted in a dwelling unit provided that the following standards are maintained:

- (1) There is no display that will indicate from the exterior that the dwelling unit is being utilized in part for any purpose other than that of a residential dwelling;
- (2) There is no merchandise manufactured or processed for sale, bought, sold, exchanged or traded in or on the premises. A home occupation involving individual works of art and involving some machine process as part of the creation of individual works of art is permitted, provided it meets all other criteria of this section, and involves no direct sales of such works of art to consumers on a regular basis from the premises;
- (3) There is no more than one person employed or engaged in the furtherance of the home occupation who is not a member of the immediate family residing on the premises;
- (4) There is no mechanical, electrical or chemical equipment used in furtherance of such home occupation, except such as causes no disturbances of any kind beyond the premises where the home occupation is located;
- (5) There are and will be no exterior alterations made to the dwelling unit for the home occupation purposes which would change the appearance of the dwelling so as to indicate from the exterior that the building is used for any purpose other than that of a dwelling unit;
- (6) There are no motor vehicles bringing clients or customers to the place of the home occupation other than for the periods from 9:00 a.m. to 5:00 p.m. on weekdays, and from 9:00 a.m. to 12:00 noon on Saturday. All such vehicles visiting the place of the home occupation shall be parked on private property;
- (7) No home occupation shall be permitted in any portion of any dwelling unit where the conduct of such home occupation is or will be offensive to neighboring property owners or occupants of the same dwelling structure by reason of excessive noise, late hours or business activity, the intensity of the business activity or other such reasons;
- (8) The home occupation shall be conducted wholly within the dwelling unit and no aspect of the home occupation shall be conducted in any accessory building except as may be conditionally permitted according to Chapters 1151 and 1153 or in any detached or attached private parking garage.

(b.1) Occasional Sales Incident to Home Occupations. Notwithstanding the provisions of subsection (b) hereinabove, the Zoning Administrator may issue a permit for an "occasional sale" to an artist or other craftsman engaged in art as a home occupation to authorize said artist to sell artwork out of the home on the following terms and conditions:

- (1) A permit for an "occasional sale" shall not be issued more than three times a year for the same premises, and shall be for a period not to exceed three days.
- (2) The sale may occur only between the hours of 9:00 a.m. and 7:00 p.m.
- (3) No merchandise may be sold at the sale other than individual works of art. At least twenty-five percent (25%) of the artwork offered for sale must have been produced on the premises upon which the sale is occurring.

- (4) Subject to the provisions of subsection 1163.06(f), one temporary sign is permitted to advertise the “occasional sale”. An “occasional sale” sign shall be categorized as a “garage sale” sign pursuant to 1163.06(f)(1)C.
- (5) No person shall participate in the conduct of the sale other than the artists whose work is being sold and residents of the premises upon which the sale is occurring. In no event shall there be more than five persons engaged at any one time in the conduct of the sale.
- (6) In considering whether to grant an application for a permit for an “occasional sale” the Zoning Administrator shall consider the past history of sales on the same premises or by the same parties, the availability of off- street parking on the premises, the availability of on-street parking in the neighborhood, the density of the neighborhood, the number of customers the sale is expected to draw, and similar factors. Any party aggrieved by the decision of the Zoning Administrator to grant or deny a permit may appeal the Administrator’s decision to the Board of Zoning Appeals.

(c) Parking Non-passenger Passenger Vehicles in a Residential District. The placing, storing, or parking of trucks and other such commercial vehicles, including pickup trucks, vans, and panel trucks, on a lot or on a public street in a residential zone district is prohibited. Exceptions to this prohibition are licensed passenger vehicles, or noncommercial motor vehicles; vehicles displaying license plates issued to a handicapped person and imprinted with the international wheelchair symbol; or vehicles displaying a valid parking card issued by the State of Ohio to handicapped persons and the following:

- (1) Such vehicle may be so placed, parked and permitted to stand for a period during the delivery therefrom or the pickup of articles or materials to be used or consumed on the related premises.
- (2) When such vehicles are used in connection with constructing, altering, repairing, maintaining or cleaning a building on such lot when the described work is in process.
- (3) One (1) single rear-axle four-wheel vehicle described as a pickup truck, van or panel truck, and not exceeding three-quarter (3/4) ton capacity or its equivalent gross weight, may be stored or parked in a private parking garage with the garage doors closed on a residential premise provided all of the following conditions are observed:
 - A. There are no offensive odors emitted from the truck.
 - B. There is stored within the confines of the truck only such items as hand tools, spare parts and small amounts of supplies and/or other items of personality. In no event is such vehicle to be used as a warehouse for the storage of substantial goods, supplies or other materials.
 - C. There are no animals, fish or fowl stored in the truck.
 - D. There are no foodstuffs or other organic materials stored in the truck which would create a condition that would attract, harbor or contain vermin, insects or rodents.
 - E. The storing of the truck in a private parking garage shall not cause the displacement of a passenger vehicle or vehicles in such manner as to result in a violation of other provisions of this Zoning Code.
 - F. There are no health or safety hazards caused in permitting the garaging of a truck.

- G. The use and garaging of a truck shall not result in a public nuisance which is offensive to neighboring property owners or residents by reason of excessive noise, late hours of truck use, intensity of activity or other such reasons.
- H. The truck shall be maintained, at all times, in good mechanical condition and exterior appearance.
- I. No maintenance and repair work on the truck shall be done on the property, except of an emergency nature.
- J. No such vehicle shall be used in conjunction with any "home occupation" not authorized by the terms of this Zoning Code.
- K. An annual permit which shall be affixed to the vehicle in plain view shall be obtained from the Zoning Administrator or designated agent for the authority to garage a truck as described in this subsection (c) and payment of the applicable fee shall be required.

(4) Subsection (c)(3) hereof shall not be applicable to vehicles licensed as noncommercial vehicles, or to vehicles not exceeding three-quarter (3/4) ton capacity or its equivalent in gross weight, that are used exclusively for purposes other than engaging in business for profit, bearing no commercial signage, and that display either license plates issued to a handicapped person and imprinted with the international wheelchair symbol, or a valid parking card issued by the State of Ohio to handicapped persons.

(d) Parking of Recreation Vehicles in a Residential District. The parking of recreation vehicles as an accessory use in a residential district is subject to the following:

- (1) Except as otherwise provided in this section, boats, campers, trailers, and similar equipment owned and used by the occupants of the premises may be stored on such premises, provided such storage is not in the open but is in a private parking garage.
- (2) Notwithstanding the provisions of subsection (d)(1) hereof, not more than one (1) open air parking space for a recreation vehicle used for recreational purposes by the occupants of the dwelling may be located in a rear yard provided that:
 - A. Such parking space shall be included in the accessory building area allowances otherwise prevailing for this site and shall not be in addition to such area allowance.
 - B. The recreation vehicle shall not have fixed connections to electricity, water, gas or sanitary sewer facilities and at no time shall the recreation vehicle be used for living or housekeeping purposes.
 - C. The recreational vehicle shall not be stored outside of a private parking garage unless adequate screening thereof has been established to the satisfaction of the Zoning Administrator. Adequate screening shall consist of building walls, fencing as permitted by this Zoning Code, or evergreen plantings in accordance with the Plantings List approved by the Planning Commission. In determining adequacy of screening, the Zoning Administrator shall consider the size of the lot in question, the proximity of buildings on adjacent property, the size of the recreational vehicle, the existing landscaping or screening on adjacent properties, and all other relevant considerations. At least five (5) days before the Zoning Administrator makes any determination as to the adequacy of the screening, he or she shall cause notices to be sent to the contiguous properties.

- D. A recreation vehicle may be parked in a parking or driveway area anywhere on the premises for loading or unloading purposes for a period of not more than forty-eight (48) hours in any consecutive twenty-one (21) day period.
- E. An annual permit shall be obtained from the Zoning Administrator or designated agent for the recreation vehicle open air parking space described in this section, and payment of the applicable fee shall be required.

...

Prohibited Uses

1167.01 SPECIFICALLY PROHIBITED USES

- (c) Wrecking or dismantling of junk motor vehicles except within a private parking garage pursuant to Section 1161.08.

Eric Zamft

From: Jacob Berger <bubkiz@gmail.com>
Sent: Wednesday, July 7, 2021 4:04 PM
To: Eric Zamft, AICP
Subject: Zoning Code Changes

I recently reviewed the proposed amendments to the Cleveland Heights zoning code with regard to garages and off street parking.

I strongly support these changes which will allow families and seniors to invest in their homes and remain in Cleveland Heights. The additional green space allowed by these changes will be very beneficial to families with children and pets while helping the environment.

I urge those in the decision making process to pass these amendments for the betterment of our city.

Sincerely,
Jacob Berger
3543 Shannon Rd, Cleveland Heights, OH 44118

Eric Zamft

From: Tiffany Allen-White <tiffanyallenwhite@gmail.com>
Sent: Friday, July 2, 2021 7:19 PM
To: Eric Zamft, AICP
Subject: Proposed Zoning Code Amendments

Hello,

I am a homeowner who occupies a two-family corner lot in your City. I support these amendments.

Particularly those allowing fencing on the rear of the corner lot. Privacy and safety are very important to me and my tenants. Not being able to have private gatherings or simply allowing the dog or children play outside in a private space has caused undue stress and burden on me and my tenants for the last 5 years. It is a major factor in my decision to maintain my residence in my home or sell it to a corporation who would not actually live here and be active in their community.

I appreciate the consideration of allowing us the same privileges as other homeowners in our community. Please vote in affirmation of the proposed amendments.

Thank you.

Sincerely,

Mrs. Tiffany Allen-White
1185 Castleton Rd, Cleveland Heights, OH 44121
216.288.5214

Eric Zamft

From: Jo Fox <foxjo27@gmail.com>
Sent: Tuesday, June 29, 2021 4:58 PM
To: Eric Zamft, AICP
Subject: Planning Commission

Eric,

On behalf of the Forest Hill Preservation Homeowners Association, I ask that the following comments are forwarded to the Planning Commission to be shared during their review of the proposed amendments to the CH codified ordinances.

We fully support the proposed clarifications & updates to the ordinances, which we agree are long overdue.

- We particularly support addition of 1161.105 (f), clarifying that driveways can be used as an accessory parking space, but with a maximum of two vehicles. In Forest Hill it seems to have become the norm to use driveways as the sole parking area, despite the fact that all homes have attached (mainly 2-car) garages. This results in multiple cars, many of which are now large SUVs, in the driveway. Pick-up trucks and panel vans, many of which we know are used for business purposes, add to the unsightly appearance of what used to be an attractive, garden-like residential neighborhood.
- 1161.105(f) is also important to us in that it includes the condition that the driveway can only be used as an accessory parking space if it is wide enough to accommodate the vehicles without them extending over sidewalks, the street, or landscaped areas. With our relatively narrow driveways and the increased number, size, and type of vehicle, residents walking the neighborhood have become used to having to step into the street or onto wet, muddy tree lawns in order to pass the row of unsightly vehicles lining a driveway from garage to the tree lawn side of the sidewalk. It is also very common for cars to extend onto the landscaping causing deep ruts up either side of the driveway. These are typically left as muddy ruts or are filled with dirt/gravel/wood chips to effectively widen the driveway, either way, these ruts give the look of a decaying neighborhood.
- We also appreciate the proposed changes in which the storage of junk cars and parking of pick-up trucks and panel vans must be within a closed garage. We see too many vehicles that are clearly used for business, such as panel trucks with ladders on the roof or pick-up trucks with construction machinery, parked in driveways.

Eric, some additional comments:

- I could not find any requirement to restore muddy ruts to the landscaping by filling and reseeding (unless a request is made to widen the driveway up to the maximum allowed width of 12 ft.) - did I just miss it or perhaps the existing maintenance requirement of 1161.11 (f) would cover this? 1161.105 (new g) already prohibits the use of gravel and wood chips as surfaces for driveways, which has been the cause of much of the decay we are seeing, that of enforcement of existing ordinances.
- We trust that any amendments will be accompanied by changes at City Hall that will ensure regular inspection and enforcement of ordinances. If the housing stock is to be valued and maintained as the Goals and Objectives of the 2017 Master Plan intended, we see a need for a dramatic increase in Building Dept. staff, resources, and accountability. We also suggest that current fines are increased to make them meaningful and that violations reaching the court are dealt with swiftly and in accordance with the intention of the ordinance and expectation of residents. We are seeing more and more people leaving the neighborhood as their taxes continue to increase and the once beautiful residential neighborhood declines for lack of enforcement by City Hall and court prosecutors.

Thanks,

Jo Fox
FHHO Preservation Committee co-chair.

Eric Zamft

From: Anthony Rupcic <arupcic@sbcglobal.net>
Sent: Sunday, June 27, 2021 10:22 PM
To: Eric Zamft, AICP
Subject: Comments for the June 29th Planning Commission Meeting



Good Evening Planning Commission,

My wife and I have to look at this home located across the street from us in our Forest Hill neighborhood at 3370 Seaton Road daily. This once well maintained home and its landscaping (by the previous owners) is now a disaster. I also believe there maybe some code violations here as well. I know per city ordinance commercial pick-up trucks need to be garaged overnight. The white pick-up truck in the photo is used for commercial purposes (landscaping business). I've seen the truck parked overnight on the street with a trailer attached and continuities to be parked illegally overnight on the cramped driveway when no trailer is attached. None of the vehicles are ever parked in the garage. Given the size of the driveways in the neighborhood and storage requirements needed to operate a landscaping business, this scenario is not compatible for my street or for this home. This is just one example of an ever increasing problem, in the Forest Hill neighborhood of cramping vehicles onto narrow driveways.

The Forest Hill Neighborhood was developed with two car attached garages facing the street. Any proposed changes are especially critical to our neighborhood given our, attached garages coupled with our narrow and short driveways. Fewer residents are now parking their vehicles in their garages. This has now led to an unsightly situation, of ruts along the side of driveways and multiple cars squeezed unto to narrow driveways. I've also seen instances where half the car is parked onto the lawn.

I personally would like to see a limit on the amount of cars that can be parked on the driveway overnight. This limit can be based on the length of the driveway. Additionally the city needs to begin citing residents who now formed ruts on their lawn created by cramping cars onto their narrow driveway. These ruts are not now being cited. Any ruts must be mandated for repair and not be allowed to be filled in with gravel or any other loose stone. Oil stains on driveways also need to be cited. If driveways are enlarged to accommodate additional vehicles, then the whole driveway must be replaced. A patch work of extended concrete never really looks right.

We've lived on this street for 26 years, invested over \$100,000.00 in renovations to restore our home to its original condition. I also volunteered for various community groups, advocated for preservation and good neighborhoods and really believed in Cleveland Heights. Now I am beginning to believe this was all a waste of time as I continue to see the deterioration of my street and my Forest Hill neighborhood with parking scenario's such as this one we highlighted.

Please address as soon as possible as this situation is fast becoming unsustainable.

Regards,

Tony & Angela Rupcic
3363 Seaton Road

Eric Zamft

From: Carla Rautenberg <Carla@Simmertildone.net>
Sent: Friday, June 11, 2021 7:46 AM
To: Jessica Cohen; Eric Zamft, AICP; Kahlil Seren; Melody Joy Hart, CPA, CTP, FP&A; Davida Russell; Jason Stein; Michael Ungar; Mary Dunbar; Craig Cobb
Subject: Parking Reform Could Reenergize Cities

Here's what happened when Buffalo changed its zoning code:

<https://www.nakedcapitalism.com/2021/06/parking-reform-could-reenergize-downtowns-heres-what-happened-when-buffalo-changed-its-zoning-rule.html>

Very important to get parking zoning under control before any more development takes place in Cleveland Heights.

The outrage of hacking down mature forest to create more parking at *Severance* still burns.

Eric Zamft

From: Deborah Van Kleef <dvankleef@igc.org>
Sent: Monday, May 3, 2021 12:31 PM
To: Eric Zamft, AICP
Cc: Jim Miller
Subject: Garages and parking

Hi Eric,

I hope you are enjoying your first spring in Cleveland Heights, snow, rain, heat, pollen and all! I found your recent presentation to Council about garage zoning of interest, and particularly appreciated your reference to the issue of open space.

My husband, Jim Miller, and I are owner occupants of a side-by-side duplex. One of its major selling points was a deep back yard.

We have a two-car garage, plus room to park two additional cars. We know that, if we ever had to replace the garage, the code would require us to build a four-car garage, which would eliminate most of the yard. We would lose trees, shrubs, flowering plants, insect and animal habitat and spaces for gardening, contemplation, and outdoor dining and entertaining, as well as play areas for our tenants' children. All of that would be replaced with impervious paving, increasing heat in the summer and runoff to storm drains from rainwater and melting snow. Multiplied by hundreds or even thousands of aging garages, this requirement will have a significant environmental effect.

During our 30 years as landlords we have never had problems concerning parking. We reserve one garage bay and one outdoor space for our tenants and the same for ourselves. We would much rather clean snow off a car during the winter than give up the benefits of our yard. Our tenants, most of whom have used the yard as much as we do, have never complained. I'm sure we are not the only Cleveland Heights residents who feel this way.

Finally, I'm going to digress a little and mention an issue that is related, though I assume it is addressed elsewhere in the code. As you know, parking is prohibited from 3:00 to 6:00 a.m. on most streets in Cleveland Heights. For 20 years my husband was chief probation officer for the Cleveland Heights Municipal Court. He clearly remembers an incident that took place in the late 1980s. He attended a Committee of the Whole meeting to address City Council on different issue, but listened to a brief discussion about continuing the overnight parking ban. For advice on this matter, Council turned to then-Chief of Police Martin Lentz. The chief stated that in his opinion the ban should remain in force due to public safety considerations. That concluded the discussion. There was no further inquiry into environmental or other concerns.

Actually, I wonder whether 24-hour on-street parking might increase public safety, since there would be more activity on the streets and therefore more eyes to keep watch. It would also make it easier for the city to stop requiring larger garages and additional paving.

I hope you and your staff will take these concerns into consideration as you work with the law department to revamp the parts of the code that concern garages.

Thank you.

Deborah

Deborah Van Kleef (she/her)

dvankleef@igc.org
216-215-7056
3251 Clarendon Road
Cleveland Hts., OH 44118

Eric Zamft

From: Jamie McMillen <JMcMillen@akronclevelandrealtors.com>
Sent: Thursday, September 30, 2021 2:31 PM
To: Jason Stein
Cc: citymanager; Eric Zamft
Subject: [EXTERNAL]Public Comment for 9/30/21 Hearing
Attachments: ACAR_Garage Requirements Letter 9.30.2021.pdf; Cleveland Hts Public Comment Page.jpg

Mayor Stein, City Manager Niermann O'Neill, and Planning Director Zamft,

Please find attached a letter from the Akron Cleveland Association of REALTORS (ACAR) for this evening's public hearing regarding Ordinance 70-2021, opposing the adoption of amendments offered by the Planning Commission, and in support of the zoning amendments proposed by staff earlier this summer. Our team has reached out numerous times for guidance on the public comment procedures as the Public Comment page of the City's website has been down for some time (screenshot from around 1:15 pm today attached). None of the requests for information or assistance was returned until today at 1:30 pm, when thankfully, Director Zamft and his assistant responded. Karen Knittel was especially helpful. As such, I am asking you to accept the attached letter as public comment from our association. Unfortunately, our schedules and previous obligations prevent us from attending in person this evening.

We applaud the City for wanting to address housing affordability. Unfortunately, the Planning Commission amendments may stall progress that otherwise could have been made. I will email a copy of the letter to council next. Please do not hesitate to contact me with any questions.

Thanks again,
Jamie

Jamie McMillen, AHWD, C2EX



Vice President of Government Affairs
Akron Cleveland Association of REALTORS
Email: jmcmillen@AkronClevelandRealtors.com
Phone: 216-525-4834 | [Schedule a meeting](#)
9100 South Hills Blvd., Suite 150
Broadview Heights, OH 44147

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The Voice of Real Estate in Northeast Ohio

September 30, 2021

The Honorable Jason Stein
Mayor, City of Cleveland Heights
40 Severance Circle
Cleveland Heights, OH 44118

Dear Mayor Stein,

On behalf of the Akron Cleveland Association of REALTORS® (ACAR), thank you for the opportunity to comment on proposed Ordinance 70-2021, introducing amendments to the City's zoning code regarding garage/parking requirements.

As you know, REALTORS® support policies that encourage housing opportunities, while protecting the quality of life that has made Northeast Ohio a desirable place to live. ACAR encourages our local governments to help expand the supply of affordable housing available for purchase or rent by individuals with middle to low or fixed incomes through a variety of means. The original draft parking amendments may have done just that. Today, we encourage you to table the ordinance as amended by the Planning Commission for further review and to reconsider the original proposal.

We applaud the city for including affordable housing in its Master Plan and agree that the original amendments would have supported that goal. According to Apartments.com, "the average apartment rent in Cleveland Heights, OH is \$719 for a studio, \$782 for one-bedroom, \$896 for two bedrooms, and \$1,365 for three bedrooms."¹ Then, consider a 2016 report in the Housing Policy Debate journal found that "garage parking typically costs renter households approximately \$142 per month or about 17% of a housing unit's rent." Although data specific to the added cost in Cleveland Heights is not known, the fact remains that the requirement may be decreasing affordable housing options in the City.

Next, consider the impact on homebuyers and sellers. A recent market data report, analyzing data from the MLS, shows that the median sales price for a home in Cleveland Heights was \$170,000. Often, the home buying/selling transaction comes with its own set of personal challenges (birth or death, marriage or divorce, career opportunity or loss, etc.). The added expense of an enclosed parking requirement as one goes through an already burdensome, onerous, and stressful point of sale inspection may restrict access to the City for those with a low or moderate household income. A quick internet search shows the cost to build a garage is \$35 – 60 per ft.² Repair costs will vary based on identified issues but could easily total thousands of dollars. This added expense could certainly be a barrier to homeownership for those with a low-to-moderate household income who may not be able to take on the expense to repair (or raze and replace) along with the city-required escrow, down payment, private home-inspection and appraisal fees, along with other expenses associated with the transaction.

¹ <https://www.apartments.com/houses/cleveland-heights-oh/?bb=s0o0949l0l3pu540B#guide>

One Central Location to Serve You

9100 South Hills Blvd., Suite 150
Broadview Heights, OH 44147
Phone: 216.901.0130
Fax: 216.901.0149

Additionally, ACAR believes there are a few areas for concern that the City should carefully consider before enacting such an ordinance.

- First, we recommend that Council permit time for an analysis of the true impact on housing affordability for both renters and homeowners. If the analysis reflects national data, the Council may want to revisit the original proposal as addressing housing affordability is part of the Master Plan.
- Next, to alleviate burdens imposed by existing requirements for both homeowners and developers, amendments to the Board of Zoning Appeals (BZA) existing authority, proposed by the Planning Commission, should be rejected. A legal analysis of the ordinance notes that, in Ohio, it appears the scope of a zoning board of appeals is limited to that expressly granted to it by the local legislative body. Since the City's charter does not address its BZA authority, it would presumably be established and limited to those in Section 1109.06 of the Zoning Code, which specifies 5 circumstances. Consequently, ACAR encourages Council to adopt the original proposal that the BZA be given the authority to vary requirements for "enclosed parking spaces, private parking garages, and accessory parking spaces in all districts."
- Confusion continues to exist with the current set of proposed private garage standards, as clear guidance seems to be lacking for property owners and they may be vulnerable to inconsistent decision making.

Again, ACAR encourages City Council to table the Planning Commission's proposed amendments to the Zoning Code and reconsider the original amendments proposed by City staff. If Council is committed to addressing housing affordability, the original proposals may better help achieve that goal.

Thank you for your attention to this matter and the opportunity to comment. Please know that ACAR is a resource for Cleveland Heights on this and any other real estate-related topics. If you have any questions, please contact our Vice President of Government Affairs, Jamie McMillen, at jmcmillen@AkronClevelandRealtors.com or (216) 525-4834.

Sincerely,



Beth Rodgers
President, Akron Cleveland Association of REALTORS®

CC: Cleveland Heights City Council



CLEVELAND HEIGHTS

Committee of the Whole

November 1, 2021

6:30 p.m.

Agenda

1. Legislation overview/Caucus
2. CDBG presentation
3. Other



CLEVELAND HEIGHTS

AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING

Monday, November 1, 2021
Regular Meeting
7:30 p.m.

Cleveland Heights City Hall
Council Chambers
40 Severance Circle
Cleveland Heights, Ohio

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Approval of the minutes of the Council meetings held on October 4 and October 18, 2021**
- 5) Personal communications from citizens**
- 6) Report of the City Manager**

Request permission to issue an RFP for Heating Ventilation and Air Conditioning (HVAC) Preventative Maintenance and Repair Services

Matter of Record

- 7) Report of the Clerk of Council**
- 8) Committee Reports**
 - a.) PLANNING AND DEVELOPMENT COMMITTEE**

ORDINANCE NO. 70-2021 (PD), *Second Reading*. An Ordinance amending various sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights.

Introduced by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 137-2021 (PD), *First Reading*. A Resolution authorizing the City Manager to enter into a second amendment to the Memorandum of Understanding with F&C Development, Inc. concerning the “Cedar-Lee Meadowbrook” development; and declaring an emergency.

Introduced by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

b.) PUBLIC SAFETY AND HEALTH COMMITTEE

c.) ADMINISTRATIVE SERVICES COMMITTEE

d.) COMMUNITY RELATIONS AND RECREATION COMMITTEE

e.) FINANCE COMMITTEE

ORDINANCE NO. 138-2021 (F), *First Reading*. An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

Introduced by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

ORDINANCE NO. 139-2021 (F), *First Reading*. An Ordinance to make appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio, for the period of January 1, 2022 through December 31, 2022; and declaring an emergency.

Introduced by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

ORDINANCE NO. 140-2021 (F), *First Reading*. An Ordinance authorizing the allocation, appropriation and expenditure of ARPA funds for sewer infrastructure improvement projects; and declaring an emergency.

Introduced by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

f.) MUNICIPAL SERVICES COMMITTEE

9) Consent Agenda

Note: Individual Consent Agenda items are not discussed separately during the Council meeting, unless removed from the Consent Agenda on the request of a member of Council. Once an item is removed from the Consent Agenda it will be placed on the Regular Agenda.

ORDINANCE NO. 141-2021 (PSH), *First Reading*. An Ordinance authorizing the renewal of an agreement with the Cuyahoga County General Health District for the provision of public health services to the City and its residents; providing compensation therefor; and declaring an emergency.

RESOLUTION NO. 142-2021 (CRR), *First Reading*. A Resolution declaring November 27, 2021, “Small Business Saturday;” and declaring an emergency.

RESOLUTION NO. 134-2021 (MS), *Second Reading*. A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights; and declaring an emergency.

Motion to suspend rules by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

Motion to adopt by Council Member _____

Vote _____
For _____ Against _____ No. Reading _____

10) Council President’s Report

11) Adjournment

NEXT MEETING OF COUNCIL: MONDAY, NOVEMBER 15, 2021

Proposed: 6/7/2021

ORDINANCE NO. 70-2021 (PD), *Second Reading*

By Council Member Ungar

An Ordinance amending various sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights.

WHEREAS, pursuant to Section 1119.01 of the Codified Ordinances of the City of Cleveland Heights, this Council may by Ordinance introduce amendments to the Zoning Code of the Codified Ordinances of the City of Cleveland Heights; and

WHEREAS, pursuant to Section 1119.01 of the Codified Ordinances of the City of Cleveland Heights, such amending Ordinance may be introduced upon Council's own initiative; and

WHEREAS, pursuant to Section 1119.03 of the Codified Ordinances of the City of Cleveland Heights, after the introduction of such amendments by Council, they shall be transmitted to the Planning Commission for its consideration and recommendation; and

WHEREAS, pursuant to Section 1119.03 of the Codified Ordinances of the City of Cleveland Heights, the Planning Commission shall be allowed a reasonable time, not less than thirty (30) days, nor more than sixty (60) days, for its consideration and recommendations; and

WHEREAS, the Planning Commission may recommend to Council that the amendments be approved as submitted to the Planning Commission, or that they be modified, or that they be denied; and

WHEREAS, Council must hold a public hearing on proposed amendments to the Zoning Code; and

WHEREAS, on March 20, 2017 the City Council adopted the City of Cleveland Heights Master Plan (the "Master Plan") containing a great deal of discussion, analysis, and proposed actions regarding transportation and parking; and

WHEREAS, based upon repeated inquiries from residents, the number of applications at the Architectural Board of Review ("ABR") and the Board of Zoning Appeals ("BZA"), and review of the existing regulations related to parking within the City, those regulations appear incompatible with current standards and best practices, and modern vehicular use; and

WHEREAS, City staff reviewed the regulations of neighboring municipalities and other municipalities in Ohio and elsewhere for best practices; and

ORDINANCE NO. 70-2021 (PD), *Second Reading*

WHEREAS, in order to address the referenced issues with the Zoning Code and implement the actions of the Master Plan, zoning text amendments that revise the parking regulations are necessary; and

WHEREAS, on June 7, 2021, Council introduced this Ordinance to amend certain sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights and transmitted the same to the Planning Commission; and

WHEREAS, the Planning Commission held public hearings and discussed this Ordinance at its June 29, 2021 and August 19, 2021 meetings; and

WHEREAS, at the conclusion of its August 19, 2021, meeting, the Planning Commission recommended that the proposed zoning amendments be adopted by Council with modifications; and

WHEREAS, this Council held a public hearing concerning the Planning Commission's recommendation on November 1, 2021, at 6:00 PM; and

WHEREAS, Council has determined to adopt the Planning Commission's recommendation as set forth herein.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The amendments to Part Eleven, *Zoning Code*, of the Codified Ordinances of the City of Cleveland Heights set forth in Exhibit A attached hereto and incorporated herein by reference, with the language of the new provisions underlined and the provisions to be deleted struck out or otherwise noted, shall be and are hereby adopted.

SECTION 2. Notice of passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the desirability of application of the amendments to pending projects and for the residents of the City to avail themselves of the amendments at the earliest time possible. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

ORDINANCE NO. 70-2021 (PD), *Second Reading*

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

ORDINANCE NO. 70-2021 (PD), *Second Reading*

Exhibit A

Proposed: 11/01/2021

RESOLUTION NO. 137-2021 (PD), *First Reading*

By Council Member Ungar

A Resolution authorizing the City Manager to enter into a second amendment to the Memorandum of Understanding with F&C Development, Inc. concerning the “Cedar-Lee Meadowbrook” development; and declaring an emergency.

WHEREAS, the City has identified the opportunity to develop the site known as “Cedar-Lee Meadowbrook,” located on land situated north of Meadowbrook Boulevard, east of Lee Road and south of Cedar Road, utilizing vacant land as well as parking facilities; and

WHEREAS, pursuant to Resolution No. 99-2021, this Council authorized the City Manager to enter into a Memorandum of Understanding with F&C Development, Inc. and move forward with negotiation of a Development Agreement consistent therewith; and

WHEREAS, the terms of the original Memorandum of Understanding, which was executed on July 12, 2021, provided for a period of 60 days for the completion of certain due diligence and for the parties to enter into a development agreement; and

WHEREAS, on August 30, 2021, this Council adopted Resolution 118-2021, authorizing an amendment to the Memorandum of Understanding to allow an additional 60 days to enter into a development agreement; and

WHEREAS, the City and F&C Development, Inc. wish to amend the Memorandum of Understanding for the second time, to allow a further extension of 30 days, until December 9, 2021, for the parties to enter into a development agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby authorizes the City Manager to enter into a Second Amendment to the Memorandum of Understanding with F&C Development, Inc., and to sign any other related documents, concerning the development of the site known as “Cedar-Lee Meadowbrook,” to provide an additional 30 days, until December 9, 2021, for the parties to enter into a development agreement. The Second Amendment to the Memorandum of Understanding shall be approved as to form by and subject to the final approval of the Director of Law.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

RESOLUTION NO. 137-2021 (PD), *First Reading*

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need for additional time to determine the terms of a development agreement and proceed with due diligence. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 11/01/2021

ORDINANCE NO. 138-2021 (F)

By Council Member

An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

BE IT ORDAINED by the Council of the City of Cleveland Heights that:

SECTION 1. Certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances all relating to appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 be, and the same hereby are increased, decreased and/or transferred in the amounts set forth in Exhibit 1.

SECTION 2. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2021, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the City Manager is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

SECTION 3. Notice of the passage of this ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one paper of general circulation in the city of Cleveland Heights.

SECTION 4. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
101 - General	2101 - City Manager	Personal Services	Transfer for salaries and Medicare.	578,945.06	(365.24)	578,579.82
	2106 - Civil Service Commission	Personal Services	Transfer for salaries and Medicare.	2,381.40	365.24	2,746.64
		O.T.P.S.	Transfer for shipping expense.	37,500.00	172.59	37,672.59
	2108 - General Operations	O.T.P.S.	Transfer for shipping expense.	1,594,245.00	(172.59)	1,594,072.41
	3101 - Finance	O.T.P.S.	Transfer to pay fees for RITA income tax collection.	154,300.00	(22,337.05)	131,962.95
	3201 - Income Tax	O.T.P.S.	Transfer to pay fees for RITA income tax collection.	1,015,000.00	22,337.05	1,037,337.05
	6208 - Street Maintenance	Personal Services	Transfer for overtime and trucking labor.	1,304,986.95	(30,000.00)	1,274,986.95
		O.T.P.S.	Transfer for overtime and trucking labor.	351,702.00	30,000.00	381,702.00
	7303 - Fire Prevention	Personal Services	Transfer for overtime expense.	107,907.79	800.00	108,707.79
		O.T.P.S.	Transfer for overtime expense.	5,200.00	(800.00)	4,400.00
	8201 - Public Prop/Park Maint	Personal Services	Transfer for overtime expense.	1,179,912.62	6,000.00	1,185,912.62
		O.T.P.S.	Transfer for overtime expense.	1,070,420.00	(6,000.00)	1,064,420.00
202 - Foundation Grants/Donatns	7201 - Police Admin	Capital	Increase for three solar radar speed signs due to receipt of a NOPEC grant.	0.00	22,000.00	22,000.00
	7301 - Fire Admin	Capital	Increase for replacement windows at a fire station due to receipt of a NOPEC grant.	0.00	75,000.00	75,000.00
207 - Drug Law Enforcement	7206 - Drug Law Enforcement	Personal Services	Increase for overtime expense.	25,362.50	15,559.63	40,922.13
234 - Earned Benefits	2108 - General Operations	Personal Services	Transfer for retirement payout.	140,261.17	(50,142.05)	90,119.12
	2201 - Management Info Serv	Personal Services	Transfer for retirement payout.	24,470.81	492.31	24,963.12
	6203 - Refuse Coll/Transfer Sta	Personal Services	Transfer for retirement payout.	9,034.30	1,023.66	10,057.96

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
6207 - Vehicle Maintenance	6207 - Vehicle Maintenance	Personal Services	Transfer for retirement payout.	597.86	4,072.32	4,670.18
	7201 - Police Admin	Personal Services	Transfer for retirement payout.	130,599.24	9,095.02	139,694.26
	7301 - Fire Admin	Personal Services	Transfer for retirement payout.	116,486.13	19,055.04	135,541.17
	8501 - Office On Aging Admin	Personal Services	Transfer for retirement payout.	0.00	12,113.68	12,113.68
	9101 - Municipal Court	Personal Services	Transfer for retirement payout.	7,789.39	4,290.02	12,079.41
238 - Coronavirus Relief Fund	7201 - Police Admin	O.T.P.S.	Transfer for replacement flooring for the Police.	0.00	4,050.00	4,050.00
	8201 - Public Prop/Park Maint	O.T.P.S.	Transfer for replacement flooring for the Police.	45,982.15	(4,050.00)	41,932.15
240 - Federal Miscellaneous Grants	5101 - Planning	Personal Services	Transfer for salaries.	0.00	83.00	83.00
		O.T.P.S.	Transfer for salaries.	25,060.00	(83.00)	24,977.00
402 - Financed Capital Projects	3101 - Finance	Capital	Transfer for credit card fees due to citizens purchasing extra refuse carts.	127,029.79	(500.00)	126,529.79
	6203 - Refuse Coll/Transfer Sta	O.T.P.S.	Transfer for credit card fees due to citizens purchasing extra refuse carts.	160.81	500.00	660.81
		Capital	Increase for the purchase of garbage trucks.	3,329,800.00	1,099,344.93	4,429,144.93
Total				11,385,134.97	1,211,904.56	12,597,039.53

Proposed: 11/01/2021

ORDINANCE NO. 139-2021 (F), *First Reading*

By Council Member

An Ordinance to make appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio, for the period of January 1, 2022 through December 31, 2022; and declaring an emergency.

BE IT ORDAINED by the Council of the City of Cleveland Heights that:

SECTION 1. To provide for the current expenses and other expenditures of the City of Cleveland Heights, Ohio, during the fiscal year ending December 31, 2022 the following sums in Exhibit 1 be and they are hereby appropriated.

SECTION 2. There shall be, and there are hereby, monies transferred from various funds in amounts not to exceed those stated below:

FROM	AMOUNT	TO
101-GENERAL FUND	\$500,000	402-FINANCED CAPITAL PROJECTS FUND
101-GENERAL FUND	400,000	234-EARNED BENEFITS FUND
101-GENERAL FUND	150,000	102-BUDGET STABILIZATION FUND
101-GENERAL FUND	700,000	301-DEBT SERVICE FUND
101-GENERAL FUND	1,200,000	232-POLICE PENSION FUND
101-GENERAL FUND	300,000	603-PARKING FUND
101-GENERAL FUND	1,500,000	233-FIRE PENSION FUND
216-RECREATION FACILITY IMPROVEMENT FUND	23,295	301-DEBT SERVICE FUND
231-TREE FUND	17,455	301-DEBT SERVICE FUND
603-PARKING FUND	65,562	234-EARNED BENEFITS FUND
TOTAL TRANSFERS FROM FUNDS	\$4,856,312	

SECTION 3. In order to avoid a deficit balance in any fund, the City's Chief Executive (until January 1, 2022, the City Manager; beginning and after January 1, 2022, the Mayor) is hereby authorized to temporarily advance from any unrestricted fund to any other fund, an amount sufficient to cover said deficit balance.

SECTION 4. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2022, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the City's Chief Executive (until January 1, 2022, the City Manager; beginning and after January 1, 2022, the

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Mayor) is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

SECTION 5. Notice of the passage of this ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one paper of general circulation in the city of Cleveland Heights.

SECTION 6. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being that in order to preserve the faith and credit of the City, it shall take effect at once; wherefore, Council declares that emergency exists and that this emergency Ordinance which shall take effect and be in force from and after the date of its passage.

JASON STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

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Exhibit 1

Fund	Department	Object		Other Financing Uses	Grand Total	
		Personal Services	O.T.P.S.			
101 - General	1101 - City Council	77,883.60	5,644.00		83,527.60	
	2101 - Mayor's Office	686,067.04	13,729.00		699,796.04	
	2106 - Civil Service Commission	2,280.60	32,410.00		34,690.60	
	2107 - Landmark Commission		10,920.00		10,920.00	
	2108 - General Operations	6,540,005.00	1,453,016.00		7,993,021.00	
	2201 - Management Info Serv	289,756.21	224,914.00	1,400.00	516,070.21	
	2501 - Community Relations	59,103.50	9,000.00	1,000.00	69,103.50	
	2502 - Public Relations	181,362.19	91,900.00		273,262.19	
	3101 - Finance	512,505.06	116,170.00	15,000.00	643,675.06	
	3103 - County Auditors Deduction		209,000.00		209,000.00	
	310Z - Oper Trsf/Temp Advance			2,050,000.00	2,050,000.00	
	3201 - Income Tax		941,000.00		941,000.00	
	4101 - Law	698,398.56	417,862.00		1,116,260.56	
	5101 - Planning	512,533.98	23,100.00		535,633.98	
	5102 - Planning Commission	8,138.34	2,730.00		10,868.34	
	5103 - Board Of Zoning Appeals	5,813.10	2,083.00		7,896.10	
	5104 - SID (Spec Impr District)		402,260.00		402,260.00	
	5106 - Architect Bd of Review	11,626.20	350.00		11,976.20	
	6201 - Service Admin	303,373.00	6,196.00	311.00	309,880.00	
	6202 - Capital Projects Admin		16,100.00		16,100.00	
	6205 - Sewer Maintenance		15.00		15.00	
	6207 - Vehicle Maintenance	852,887.00	1,108,429.00	21,891.00	1,983,207.00	
	6208 - Street Maintenance	1,313,587.00	311,557.00	4,200.00	1,629,344.00	
	6211 - Traffic Signs & Signals	61,208.00	135,015.00		196,223.00	
	7201 - Police Admin	9,381,544.63	580,117.00	700.00	1,200,000.00	11,162,361.63
	7202 - Police Academy	4,565.25	63,875.00		68,440.25	
	7301 - Fire Admin	6,864,062.09	202,874.00		1,500,000.00	8,566,936.09
	7302 - Joint Dispatch Office		1,300,000.00		1,300,000.00	
	7303 - Fire Prevention	99,534.06	3,525.00	800.00	103,859.06	
	7401 - Building Services		604,690.00		604,690.00	
	7402 - Housing Inspections	669,732.88	91,560.00		761,292.88	
	8101 - Community Services Admin		4,620.00		4,620.00	
	8201 - Public Prop/Park Maint	1,101,519.00	1,005,227.00		2,106,746.00	
	8401 - Parks & Recreation Admin	332,596.38	31,240.00		363,836.38	
	8403 - Swimming Pools	250,538.61	140,386.00		390,924.61	
	8405 - Ice Programs	231,682.53	12,742.00		244,424.53	
	8406 - General Recreation Prog	117,196.85	22,250.00		139,446.85	
	8409 - Sports Programs	126,995.00	65,370.00		192,365.00	
	8411 - Community Center Admin	597,793.00	294,421.00		892,214.00	
	8501 - Office On Aging Admin	135,214.72	19,011.00		154,225.72	
	8601 - Public Health Admin		268,091.00		268,091.00	

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Fund	Department	Personal Services	O.T.P.S.	Capital	Other Financing Uses	Grand Total
101 - General	8701 - Animal Protection	80,636.07	23,754.00			104,390.07
	9101 - Municipal Court	1,047,890.01	161,524.00			1,209,414.01
101 - General Total		33,158,029.46	10,428,677.00	45,302.00	4,750,000.00	48,382,008.46
201 - Street Constr, Maint	6201 - Service Admin	79,484.00				79,484.00
	6208 - Street Maintenance	104,636.00				104,636.00
	6213 - Monticello Blvd		37,802.00			37,802.00
	6215 - Road Repaving-State/Cnty		20,480.00			20,480.00
	6220 - Taylor Road		63,799.00			63,799.00
	6236 - Annual Street Surface			2,020,000.00		2,020,000.00
	6312 - Meadowbrook Blvd Rehab		118,922.00			118,922.00
201 - Street Constr, Maint Total		184,120.00	241,003.00	2,020,000.00		2,445,123.00
202 - Foundation Grants/Donatns	7402 - Housing Inspections			50,000.00		50,000.00
202 - Foundation Grants/Donatns Total				50,000.00		50,000.00
206 - Law Enforcement	7205 - Law Enforcement		123,000.00			123,000.00
206 - Law Enforcement Total			123,000.00			123,000.00
207 - Drug Law Enforcement	7206 - Drug Law Enforcement	65,942.50	77,000.00			142,942.50
207 - Drug Law Enforcement Total		65,942.50	77,000.00			142,942.50
208 - CDBG Resource	5201 - CDBG Financial Admin	13,581.35				13,581.35
	5203 - CDBG Admin Contracts		258,467.00			258,467.00
	5211 - CDBG Comm'l Area Improve			104,858.00		104,858.00
	5220 - CDBG Office On Aging	35,461.74				35,461.74
	5222 - Economic Development	123,613.36	1,215,509.00	1,200.00		1,340,322.36
	5224 - CDBG Admin	145,529.00	25,800.00	4,500.00		175,829.00
	5301 - CDBG Home Repair Resource		167,588.00			167,588.00
	5303 - CDBG Housing Pres Office	401,951.00	177,155.00	2,000.00		581,106.00
	5304 - CDBG Code Enforcement	68,683.00				68,683.00
	5309 - GIS	35,864.97		6,500.00		42,364.97
208 - CDBG Resource Total		824,684.42	1,844,519.00	119,058.00		2,788,261.42
211 - Home Program	5503 - HOME Admin		400,000.00			400,000.00
	5505 - HOME Program Income		150,000.00			150,000.00
211 - Home Program Total			550,000.00			550,000.00
212 - FEMA Grant	7301 - Fire Admin			73,953.00		73,953.00
212 - FEMA Grant Total				73,953.00		73,953.00
213 - Police Facility Impr Fund	7201 - Police Admin		16,000.00	15,000.00		31,000.00
213 - Police Facility Impr Fund Total			16,000.00	15,000.00		31,000.00
214 - Local Programming	2108 - General Operations		82,344.00	14,086.00		96,430.00
	2601 - Cable TV Admin	136,158.00	187,400.00	90,000.00		413,558.00
214 - Local Programming Total		136,158.00	269,744.00	104,086.00		509,988.00
215 - Cain Park Operating	8901 - Cain Park Admin/Start-Up	173,175.00	388,730.00			561,905.00
	8905 - Arts Festival/Art Gallery		25,620.00			25,620.00
	8906 - Theater		42,550.00			42,550.00
215 - Cain Park Operating Total		173,175.00	456,900.00			630,075.00
216 - Rec Fac Imp Fund	3101 - Finance				23,295.00	23,295.00

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Fund	Department	Personal Services	O.T.P.S.	Capital	Other Financing Uses	Grand Total
216 - Rec Fac Imp Fund	8301 - Park Maintenance Admin		167,000.00	304,000.00		471,000.00
216 - Rec Fac Imp Fund Total			167,000.00	304,000.00	23,295.00	494,295.00
226 - Lead Safe Cuyahoga	5303 - CDBG Housing Pres Office		600,000.00			600,000.00
226 - Lead Safe Cuyahoga Total			600,000.00			600,000.00
228 - CDBG-COVID	5220 - CDBG Office On Aging		55,000.00			55,000.00
	5222 - Economic Development		290,000.00			290,000.00
	5224 - CDBG Admin		81,318.00			81,318.00
228 - CDBG-COVID Total			426,318.00			426,318.00
230 - Street Lighting	3101 - Finance		52,500.00			52,500.00
	6211 - Traffic Signs & Signals		680,715.00			680,715.00
230 - Street Lighting Total			733,215.00			733,215.00
231 - Tree	3101 - Finance		36,500.00			36,500.00
	3102 - Oper Trsf/Temp Advance				17,455.00	17,455.00
	8801 - Forestry	811,479.00	319,325.00	93,971.00		1,224,775.00
231 - Tree Total		811,479.00	355,825.00	93,971.00	17,455.00	1,278,730.00
232 - Police Pension	7201 - Police Admin		1,482,592.14			1,482,592.14
232 - Police Pension Total			1,482,592.14			1,482,592.14
233 - Fire Pension	7301 - Fire Admin		1,730,062.33			1,730,062.33
233 - Fire Pension Total			1,730,062.33			1,730,062.33
234 - Earned Benefits	2108 - General Operations		400,000.00			400,000.00
234 - Earned Benefits Total			400,000.00			400,000.00
241 - Local Fiscal Recovery	2108 - General Operations		38,433,591.00			38,433,591.00
	7301 - Fire Admin	205,874.07				205,874.07
241 - Local Fiscal Recovery Total		205,874.07	38,433,591.00			38,639,465.07
301 - G.O. Bond Retirement	3101 - Finance		3,290,035.00			3,290,035.00
301 - G.O. Bond Retirement Total			3,290,035.00			3,290,035.00
402 - Financed Capital Projects	3101 - Finance			500,000.00		500,000.00
402 - Financed Capital Projects Total				500,000.00		500,000.00
411 - Economic Development	5101 - Planning		299,500.00			299,500.00
411 - Economic Development Total			299,500.00			299,500.00
412 - City Hall Maint & Repair	2102 - City Hall Maint/Repair		15,000.00			15,000.00
412 - City Hall Maint & Repair Total			15,000.00			15,000.00
416 - Refuse Capital Fund	6203 - Refuse Coll/Transfer Sta			5,000.00		5,000.00
416 - Refuse Capital Fund Total				5,000.00		5,000.00
601 - Water Administration	6301 - Water Admin		600.00			600.00
	6302 - Water Distribution		10,000.00	1,444,509.00		1,454,509.00
	6314 - Runnymede/Quilliams Wtr		20,207.00			20,207.00
	6326 - Cedar Wtr/Swr Loan Iss #2		47,044.00			47,044.00
601 - Water Administration Total			77,851.00	1,444,509.00		1,522,360.00
602 - Sewerage Disposal	6205 - Sewer Maintenance	1,476,859.00	771,050.00	4,953,822.00		7,201,731.00
	6301 - Water Admin		25,800.00			25,800.00
	6312 - Meadowbrook Blvd Rehab		8,522.00			8,522.00
	6326 - Cedar Wtr/Swr Loan Iss #2		4,267.00			4,267.00

ORDINANCE NO. 139-2021 (F), *First Reading*

ORDINANCE NO. 139-2021 (F), *First Reading*

Fund	Department	Personal Services	O.T.P.S.	Capital	Other Financing Uses	Grand Total
602 - Sewerage Disposal	6327 - Demington Sewer		38,240.00			38,240.00
602 - Sewerage Disposal Total		1,476,859.00	847,879.00	4,953,822.00		7,278,560.00
603 - Parking Fund	310Z - Oper Trsf/Temp Advance				65,562.00	65,562.00
	6210 - Parking Department	151,691.00	1,132,792.00	5,000.00		1,289,483.00
603 - Parking Fund Total		151,691.00	1,132,792.00	5,000.00	65,562.00	1,355,045.00
605 - Refuse Fund	6203 - Refuse Coll/Transfer Sta	2,567,797.00	1,303,500.00	15,000.00		3,886,297.00
605 - Refuse Fund Total		2,567,797.00	1,303,500.00	15,000.00		3,886,297.00
606 - ALS Ambulance Services	7304 - ALS Ambulance Services	504,173.00	252,662.00	651,268.00		1,408,103.00
606 - ALS Ambulance Services Total		504,173.00	252,662.00	651,268.00		1,408,103.00
701 - Hospitalization Self-Ins	3101 - Finance	7,290,839.00				7,290,839.00
701 - Hospitalization Self-Ins Total		7,290,839.00				7,290,839.00
804 - Off/Aging Donations	8501 - Office On Aging Admin		7,430.00			7,430.00
	8502 - OOA-Sr Computer Center		5,000.00	3,000.00		8,000.00
804 - Off/Aging Donations Total			12,430.00	3,000.00		15,430.00
808 - Youth Recreation Donation	8101 - Community Services Admin		5,000.00			5,000.00
808 - Youth Recreation Donation Total			5,000.00			5,000.00
809 - Police Memorial Trust	7201 - Police Admin		10,000.00			10,000.00
809 - Police Memorial Trust Total			10,000.00			10,000.00
811 - Juvenile Diversion Prog	7209 - Juvenile Diversion Prog		10,000.00			10,000.00
811 - Juvenile Diversion Prog Total			10,000.00			10,000.00
857 - Sales Tax	3101 - Finance		400.00			400.00
857 - Sales Tax Total			400.00			400.00
858 - Miscellaneous Agency	3105 - Unclaimed Money		20,000.00			20,000.00
	7201 - Police Admin		75,000.00			75,000.00
	7402 - Housing Inspections		500,000.00			500,000.00
858 - Miscellaneous Agency Total			595,000.00			595,000.00
Grand Total		51,163,475.92	62,574,841.00	10,402,969.00	4,856,312.00	128,997,597.92

This is the slide deck from the budget hearing presentation to Council on 10/25/2021
by Amy Himmelein, Finance Director.

City of Cleveland Heights

2022 Budget

October 25, 2021

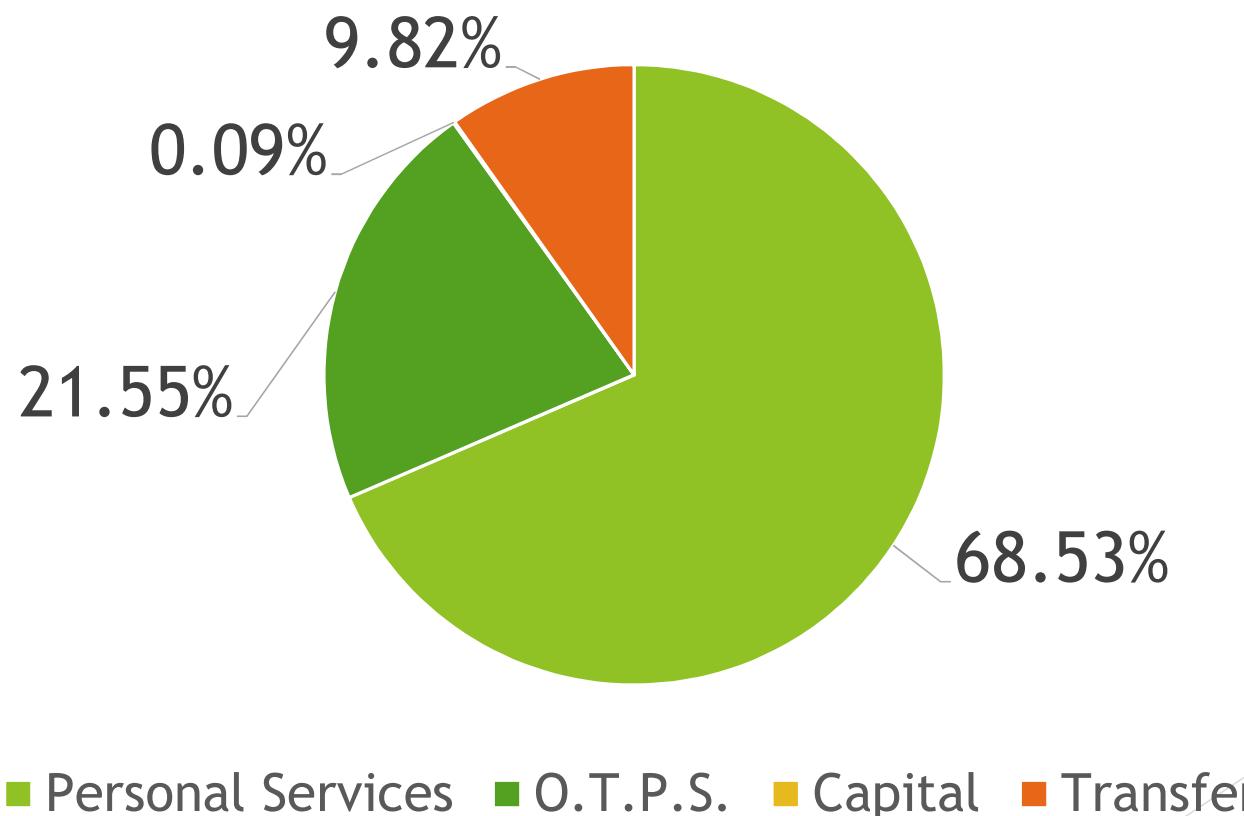
2022 General Fund Baseline Budget Development

- ▶ 2021 Year end fund balance set the stage for 2022 budget.
 - ▶ Projecting a \$4.5 million fund balance; \$10 million is best practice target.
- ▶ Salaries increased by 2% for police and fire unions and non-bargaining staff.
 - ▶ Local 860 union contract for 2022 has not been negotiated and outcome is unknown so no increase is reflected.
 - ▶ Only positions that are currently filled or are expected to be filled in 2022 are budgeted.
 - ▶ 374 budgeted positions in General Fund.
 - ▶ 15 positions from last year were not budgeted.
- ▶ Anticipating some fixed costs and subsidies to other funds to increase.
 - ▶ Projecting a 13% increase in hospitalization costs and 15% increase in risk management costs.
 - ▶ Projecting larger transfers to cover debt service and fund deficits in both pension funds and parking fund.
 - ▶ Not budgeting to “pre-fund” hospitalization fund.

2022 General Fund Baseline Budget Development

- ▶ Refuse department moved to it's own fund.
 - ▶ Subsidy to Refuse not currently budgeted.
 - ▶ Refuse has 32 positions that were moved to the new fund.
- ▶ Result is that Non-Salary expenditures had to be reduced 30% in order for General Fund to break even.
 - ▶ Some Directors chose to not budget positions in order to meet required operating expenses such as utilities or existing contracts.

2022 General Fund Budget Breakdown



2022 General Fund Budget Detail

REVENUES:	
Property Taxes	\$7,548,000
Municipal Income Tax	28,000,000
Other Local Taxes	52,200
State Levied/Shared Taxes	1,682,108
Intergovernmental Grants & Contracts	948,621
Charges For Services	550,500
Fees, Licenses, Permits	2,091,086
Interest Earnings	229,868
Fines and Forfeitures	1,630,000
All Other Revenue	5,669,690
Sale of Assets	16,889
Total Revenues	\$48,418,962

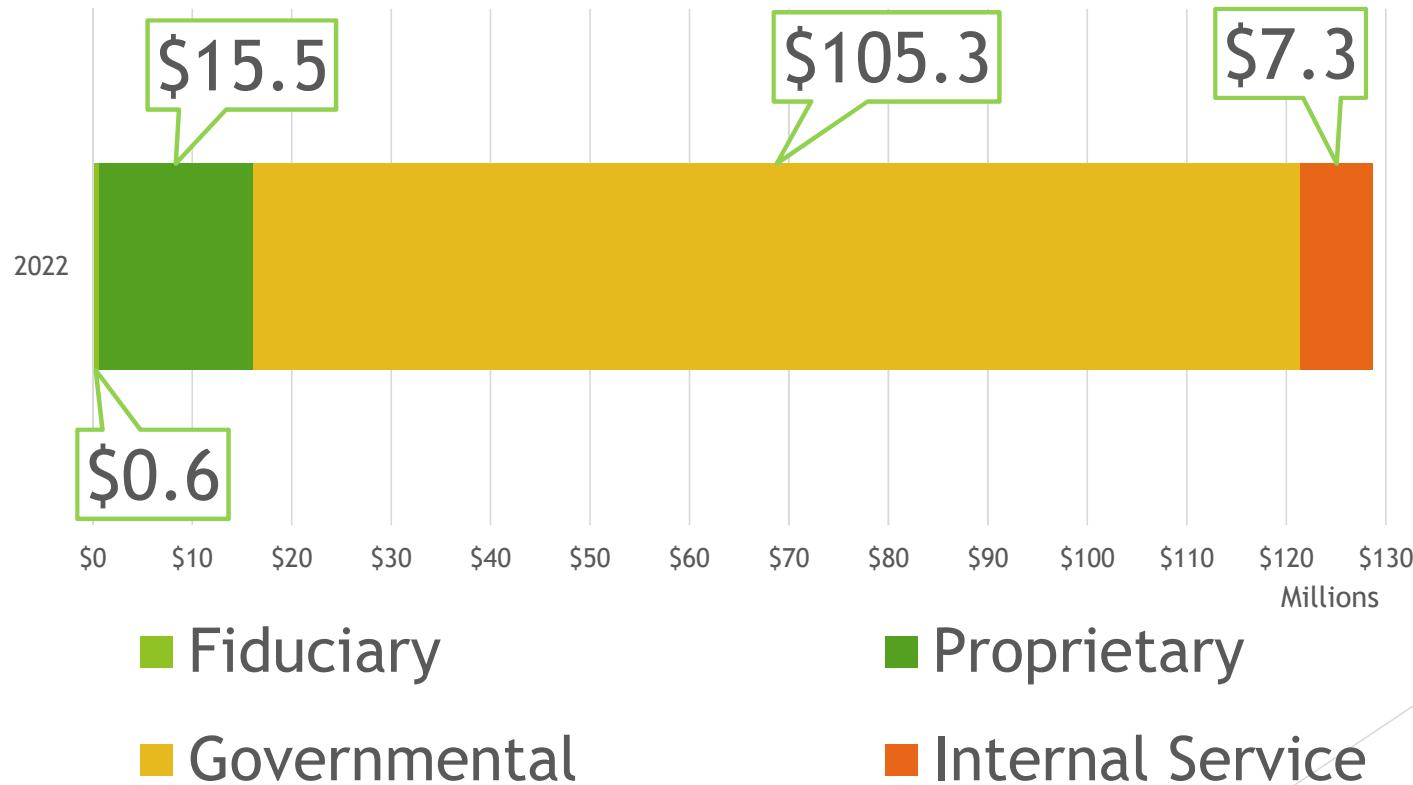
EXPENDITURES:	Personal Services	Other	Total
Community Services	\$240,466	\$374,611	\$615,077
Parks & Recreation	2,893,536	1,590,647	4,484,183
Finance Department	512,505	1,072,170	1,584,675
Planning & Development	538,112	39,183	577,295
Public Safety	17,161,283	3,006,910	20,168,193
Public Works	2,469,847	1,468,699	3,938,546
General Government	3,464,641	2,921,759	6,386,400
Hospitalization	5,877,640	0	5,877,640
Transfers Out	0	4,750,000	4,750,000
Total Expenditures	\$33,158,029	\$15,223,979	\$48,382,008

Estimated Beginning Fund Balance	\$4,500,000
Total Revenues	48,418,962
Total Expenditures	48,382,008
Estimated Ending Fund Balance	\$4,536,954

General Fund Going Forward

- ▶ Revenue and rate structures will be evaluated to ensure fees are appropriate to cover the cost of providing the service.
- ▶ One time revenues will not be appropriated in order to rebuild the General Fund balance.
- ▶ Purchases will be evaluated for necessity.
- ▶ Overtime will be monitored.

Total Fiscal Year 2022 Budget = \$128.7 Million



2022 Other Funds Budget Highlights

- ▶ All of ARPA's funds are budgeted, but not allocated to specific projects yet.
- ▶ Refuse Fund is budgeted as it's own fund as a Proprietary Fund.
 - ▶ Will allow us to see if revenue is meeting expenses.
 - ▶ Rate study previously showed 23% General Fund subsidy.
- ▶ Will be evaluating special assessment charged for street lighting and tree funds to make sure they are still adequate to meet increasing costs.
- ▶ Parking Fund is budgeted to have parking fees reinstated beginning of 2022.

2022 Budget Capital Highlights

- ▶ Specific capital projects have not yet been approved.
- ▶ \$500,000 has been allocated to the Capital Fund and budgeted.
 - ▶ Will move budget to correct department once projects are approved.
- ▶ Approved capital projects in Other Funds:
 - ▶ Annual street striping
 - ▶ Water line projects at Superior and East Overlook
 - ▶ Sewer projects funded by MCIP through NEORSD
 - ▶ Design work for sewer projects related to the IOCMP
 - ▶ Leasing new ladder fire truck

2022 Budget Takeaways

- ▶ General Fund is very fragile.
 - ▶ Will need constant monitoring.
- ▶ Budget is still in need of tweaks.
 - ▶ Council will continue to receive budget adjustments.
- ▶ Revenue needs evaluated to ensure it is keeping pace with rising costs.

ORDINANCE NO. 140-2021 (F), *First Reading*

By Council Member

An Ordinance authorizing the allocation, appropriation and expenditure of ARPA funds for sewer infrastructure improvement projects, and declaring an emergency.

WHEREAS, on the 11th Day of March 2021, the President of the United States, Joseph R. Biden, signed into law the American Rescue Plan Act of 2021 (hereafter “ARPA”), Public Law 117-2, authorizing, among other things, payment of direct subsidies to the general revenue funds of cities, counties, school districts, and other governmental entities; and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, the intended purpose of the direct subsidy payments to state and local governmental entities under the ARPA is to alleviate the effect of funding shortfalls, invest in state and local economic development, and provide relief from the economic and societal hardships sustained during the onset of the Coronavirus Pandemic and COVID-19 illness; and

WHEREAS, ARPA and the Interim Final Rule provide that ARPA funds may be used, among other reasons, to make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, the City of Cleveland Heights has been notified of ARPA funding in the amount of \$38,817,062, split into two payments with one in 2021 and one in 2022; and

WHEREAS, in 2017, pursuant to Resolution 66-2017, the City entered into a partial consent decree with the United States of America, the U.S. Environmental Protection Agency (EPA), and the State of Ohio related to alleged violations of the Clean Water Act; and

WHEREAS, Section V (F) of the partial consent decree requires that by June 1, 2021, the City submit for EPA review and approval an Integrated Overflow Control Master Plan (IOCM) developed in accordance with Appendix A to the partial consent decree; and

WHEREAS, the City, working with professional engineers and financial consultants, developed an IOCM meeting the requirements of the partial consent decree, and timely submitted it for EPA review and approval; and

WHEREAS, the City’s IOCM submittal included sewer projects necessary to comply with the partial consent decree that would cost in excess of \$40,000,000, in 2021 dollars, over 15 years; and

WHEREAS, this Council has determined that the permitted use of ARPA funds for IOCM and other necessary sewer projects will speed the initiation and completion of many projects, will

ORDINANCE NO. 140-2021, *First Reading*

allow the City to seek grant funding that requires local match funding, will improve the environment of the City and the health and safety of its residents, and will have a powerful impact on sewer rate increases that would otherwise be required to fund the performance of work related to the IOCMP; and

WHEREAS, the City has determined that the investment of ARPA funds into the IOCMP project work is projected to generate savings for Cleveland Heights residents, over 20 years, that exceed four times the ARPA dollars invested; and

WHEREAS, the savings to Cleveland Heights residents through lower sewer rates as a result of the use of ARPA funds for this purpose will be universal and will accrue to the benefit of every household, business and institutional sewer customer in the City, and will enhance the City's competitive position as a community of choice for residents and businesses; and

WHEREAS, there are many competing needs within the City of Cleveland Heights that might be addressed to some extent through the use of ARPA funding; and

WHEREAS, Council at this time determines that a very substantial investment of ARPA funds toward sewer infrastructure projects is in the best interest of the City of Cleveland Heights and its residents.

BE IT ORDAINED by the Council of the City of Cleveland Heights, that:

SECTION 1. Council at this time directs the use of Eighteen Million Dollars (\$18,000,000.00) in ARPA funding for the performance of sewer infrastructure improvement projects described in the IOCMP, and allocates those funds for that purpose, to be drawn upon for design contracts, local match grant programs, and construction contracts, to the maximum possible extent, within the timing requirements of the ARPA and the Interim Final Rule.

SECTION 2. Council will continue to consider uses of ARPA funding to produce the maximum benefit for the City and its residents, which may include the determination in the future to devote additional ARPA funds to IOCMP-related sewer infrastructure in excess of the funding level established in Section 1.

SECTION 3. The Finance Director and the Public Works Director are to periodically update Council on the usage of ARPA monies for IOCMP sewer infrastructure projects, so that it can timely consider uses in accordance with Section 2 and to ensure that if for any reason the allocation described in Section 1 cannot be timely utilized, no ARPA monies go unused.

SECTION 4. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to timely appropriate funding received from

ORDINANCE NO. 140-2021, *First Reading*

the ARPA for purposes of performing sewer infrastructure improvement work related to necessary sewer investments including the City's Integrated Overflow Control Master Plan at the earliest possible time, to improve environmental conditions in the City, and to ensure that Cleveland Heights residents receive the maximum possible benefit associated with the earliest possible investment of such funds as described herein. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 11/01/2021

ORDINANCE NO. 141-2021 (PSH)

By Council Member

An Ordinance authorizing the renewal of an agreement with the Cuyahoga County General Health District for the provision of public health services to the City and its residents; providing compensation therefor; and declaring an emergency.

WHEREAS, Ohio Revised Code Section 3709.08 authorizes cities to enter into contracts with general health districts for public health services; and

WHEREAS, this Council has authorized such agreements with the Cuyahoga County General Health District for such health services in previous years; and

WHEREAS, it would be in the best interest of the City and its residents to renew this agreement for the calendar years 2022 and 2023.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City Manager be, and she is hereby, authorized and directed to enter into any and all agreements, and to execute any related documents, with the Cuyahoga County General Health District (hereafter the "District") for the provision of certain public health services to the City and its residents which are required to be provided under State law including, without limitation, school health services, community health services, family health services, and environmental health and sanitation services. The agreement shall be for a period of two years, commencing January 1, 2022. The fee for the mandated services shall not exceed the sum of \$271,872 for calendar year 2022 and \$299,059 for calendar year 2023. The agreement and any related documents shall be approved as to form and subject to the final approval of the Director of Law.

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet County deadlines and continue providing residents essential health services uninterrupted. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 11/01/2021

RESOLUTION NO. 142-2021 (CRR)

By Council Member

A Resolution declaring November 27, 2021, “Small Business Saturday;” and declaring an emergency.

WHEREAS, the City of Cleveland Heights celebrates our local small businesses and the vital contributions they make to our local economy and community; and

WHEREAS, small businesses provide more than 47% of private sector jobs in the United States; and

WHEREAS, the City of Cleveland Heights supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

WHEREAS, the health of Cleveland Heights’ small businesses depends on the support of the community; and

WHEREAS, public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday; and

WHEREAS, the Cleveland Heights City Council invites residents and visitors to shop in our business districts on November 27, 2021, in honor of Small Business Saturday.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council does hereby proclaim November 27, 2021, as “Small Business Saturday,” and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and through the year.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to timely recognize Small Business Saturday. Wherefore, provided it received the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 142-2021 (CRR)

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 10/18/2021

RESOLUTION NO. 134-2021 (MS), *Second Reading*

By Council Member

A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights; and declaring an emergency.

WHEREAS, the State of Ohio has identified the need for the following described project: SRTS Infrastructure Project to improve walking and biking to the Cleveland Heights/University Heights schools. Project will install ADA compliant curb ramps and high visibility ladder style crosswalk markings at two mid-block crossings and four intersections and will install bike racks with concrete pads in the City of Cleveland Heights; and

WHEREAS, this Council has determined that it is in the best interests of the City and its residents to participate in said project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby gives consent to the Director of Transportation for the State of Ohio to complete the following described project: SRTS Infrastructure Project to improve walking and biking to the Cleveland Heights/University Heights schools. Project will install ADA compliant curb ramps and high visibility ladder style crosswalk markings at two mid-block crossings and four intersections and will install bike racks with concrete pads in the City of Cleveland Heights (hereafter the “Project”).

SECTION 2. The City shall cooperate with the Director of Transportation in the Project as follows:

The City agrees to assume and contribute the entire cost and expense of the improvement less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, United States Department of Transportation. The City agrees to assume and bear one hundred percent (100%) of the cost of preliminary engineering, right-of-way and environmental documentation.

The City agrees to assume and contribute one hundred percent (100%) of the cost of any work included in the construction contract, at the request of the City, which is determined by the Director not to be part of or made necessary by the improvement.

The City further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order

RESOLUTION NO. 134-2021 (MS), *Second Reading*

or extra work contract until it first gives notice, in writing, to the City. The City shall contribute its share of the cost of these items in accordance with other sections herein.

The City agrees that if Federal Funds are used to pay the cost of any consultant contract, the City shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further, the City agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The City agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The City agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

SECTION 3. The City agrees to acquire and/or make available to Ohio Department of Transportation ("ODOT"), in accordance with current State and Federal regulations, all necessary right-of-way required for the described Project. The City also understands that right-of-way costs include eligible utility costs. The City agrees to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

SECTION 4. Upon completion of the described Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance for the described Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the described Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

SECTION 5. The City Manager is hereby empowered on behalf of the City to enter into any and all agreements with the Ohio Director of Transportation, and any related agreements, necessary to complete the above-described Project, subject to approval as to form, of the Director of Law.

SECTION 6. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 7. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet ODOT deadlines and to expedite the project in order to improve pedestrian traffic safety at the earliest time possible. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or

RESOLUTION NO. 134-2021 (MS), *Second Reading*

appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of Council

AMY HIMMELEIN
Clerk of Council

PASSED:

CFDA 20.205

CUY SRTS FY2022 CLEVELAND Hts
COUNTY-ROUTE-SECTION

110908

PID NUMBER

36878

AGREEMENT NUMBER

DUNS NUMBER

LPA FEDERAL ODOT-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the **City of Cleveland Heights, 40 Severance Circle, Cleveland Heights, Ohio 44118** hereinafter referred to as the LPA..

1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The **CUY-SRTS-FY2022 Cleveland Hts (PID 110908)** (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities of ODOT and the LPA for administration of the PROJECT.

2. LEGAL REFERENCES AND COMPLIANCE

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:

A. FEDERAL

- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 23 CFR 172 "Administration of Engineering and Design Related Design Related Service Contracts"
- 23 CFR 630.106 – Authorization to Proceed
- 23 CFR 636.116 - Organizational Conflict of Interest Requirements for Design-Build Projects
- 23 CFR 645 - Utilities
- 48 CFR Part 31 – Federal Acquisition Regulations
- 49 CFR PART 26 - Participation by Disadvantaged Business Enterprises “DBE” in Department of Transportation Financial Assistance Programs
- 23 USC 112 "Letting of Contracts"

- 40 USC Subtitle I, Chapter 11, Sections 1101-1104, the "Brooks Act." – "Selection of Architects and Engineers"
- Federal Funding Accountability and Transparency Act (FFATA)

B. STATE

- ORC 153.65 through 153.71
- ORC 5501.03(D)
- OAC 4733-35-05

C. ODOT

- ODOT's Manual for Administration of Contracts for Professional Services
- ODOT's Specifications for Consulting Services – 2016 Edition
- ODOT's Consultant Prequalification Requirements and Procedures
- State of Ohio Department of Transportation Construction and Material Specifications Manual
- State of Ohio Department of Transportation Construction Administration Manual of Procedures

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING AND PAYMENT

3.1 The total cost for the PROJECT is estimated to be \$ 200,000.00 as set forth in Attachment 1.

ODOT shall provide to the LPA 100 percent of the eligible costs, up to a maximum of \$ 200,000 in Federal (4SC7) funds which includes 20 percent Toll Revenue Credit, up to a maximum of \$ 40,000. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied on any phase of the project.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, and all cost overruns and contractor claims in excess of the maximum(s) indicated in 3.1 above.

3.3 All funding from ODOT under this Agreement operates on a reimbursement basis. The LPA shall review and/or approve all contractor invoices for materials, equipment and labor prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT.

3.4 The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The **LPA** must submit to ODOT a written request for reimbursement of the state share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.

3.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.

3.6 The LPA shall certify in writing that the PROJECT was developed and delivered in compliance with the terms, conditions and requirements of the PROJECT Agreement with his/her Professional Engineer's seal and signature. The LPA shall then provide the final report to the ODOT District within 6 months of the physical completion date of the PROJECT so that the report may be audited and approved for payment. If the deadline cannot be met, a written explanation must be provided to the District prior to the end of the 6 months documenting the reason and the new anticipated date of completion. If the extended deadline is not met, then this process must be repeated until the PROJECT is completed. Failure to follow this process may result in the immediate close-out of the PROJECT and loss of further funding.

3.7 Payment or reimbursement to the LPA shall be submitted to:

City of Cleveland Heights
40 Severance Circle
Cleveland Heights, Ohio 44118

4. **PROJECT DEVELOPMENT**

4.1 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.2 Project Development shall follow ODOT's Project Development Process and all ODOT standards for environmental evaluations, design, plan preparation, right of way acquisition, utility relocation and other processes as set out in the Department's Design Reference Resource Center, available on ODOT's website (www.dot.state.oh.us/drrc/Pages/default.aspx). Responsibilities for development of the PROJECT shall be as follows and further described herein:

LPA ODOT Let Project Responsibility Assignments

		Responsibility		
PDP Phase	Activity	LPA	ODOT	Commentary
Planning	All	X		ODOT to provide coordination as needed
Preliminary Engineering	All	X		ODOT to: 1) Provide coordination as needed 2) Review all plans and documents and provide comments
Environmental Engineering	Stage 1 Plans	X		ODOT to review all plans and documents and provide comments.
	Stage 2 Plans	X		ODOT to review all plans and documents and provide comments.

Final Engineering & R/W	Value Engineering		X	ODOT will coordinate Value Engineering if required. Refer to Section 4.7.
	Cost Estimates	X		LPA/Consultant shall prepare in Estimator format.
	NEPA	X		ODOT will coordinate NEPA approval. Refer to Section 4.7 for Environmental Responsibilities.
	Permits		X	ODOT will obtain permits needed to construct the PROJECT.
	R/W Plans	X		ODOT to review all plans and documents and provide comments.
	Public/Stakeholder Involvement	X		ODOT to review all PI plans and materials and provide comments.
	R/W Acquisition & Relocation	X		Refer to Section 6 for detailed requirements.
	Utility Relocation	X		Refer to Section 6.6 for additional details.
	Railroad Coordination and Agreements		X	Refer to Section 6.8 for additional details.
	Stage 3 Plans	X		ODOT to review all plans and documents and provide comments.
Construction	Cost Estimates	X		LPA shall prepare in Estimator format.
	Final Plan Package	X		ODOT to review all plans and documents and provide comments.
Construction	Mitigation		X	ODOT will coordinate any required mitigation efforts.
	Public/Stakeholder Involvement	X		ODOT to review all PI plans and materials and provide comments.
	Advertise		X	LPA and consultants to assist in responding to bidder questions and preparation of any addenda.
	Award		X	ODOT Awards Committee

	Administer Construction Contract		X	ODOT will administer the construction contract. The LPA and LPA's consultants shall respond promptly to requests for information or other construction issues.
	Public/Stakeholder Involvement	X	X	ODOT to coordinate in cooperation with the LPA.
All Phases	Federal Authorizations		X	ODOT will coordinate and obtain all needed FHWA Authorizations and notify the LPA upon approval.
All Phases	Encumbrance of Funds		X	ODOT will encumber funds in accordance with this Agreement.

4.3 The LPA shall designate an LPA employee to act as the LPA Project Manager and act as the point of contact for all communications with ODOT.

4.4 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

4.5 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

4.6 Environmental Responsibilities

- A. In the administration of this PROJECT, the Permittee shall be responsible for conducting any required public involvement activities, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act.
- B. If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire a consultant in accordance with Section 5.
- C. ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- D. Whichever party obtains the Project's environmental clearance or permits shall be responsible for assuring compliance with all commitments made as part of such clearance or permit requirements during the construction of the PROJECT.
- E. The LPA shall require its consultant to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act.

- F. The LPA shall require its consultant to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- G. The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

4.7 Use of ODOT Consultant Agreements

- A. ODOT may provide services through ODOT held consultant agreements at its discretion subject to funding participation by the LPA. Agreements that may be available for use include the following:
 1. If the LPA chooses to utilize the CEOA task order contract for environmental services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.
 2. If the LPA chooses to utilize the CEOA task order contract for right-of-way acquisition services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.
 3. Value Engineering. If Value Engineering is required, the Department may elect to use an ODOT held agreement to assist in administering the Value Engineering process. If Value Engineering is required, the LPA shall require its consultants to participate as needed.

5. CONSULTANT SELECTION AND ADMINISTRATION

5.1 General Requirements

- A. The LPA must select a consultant/ consultant team that is prequalified by ODOT for all services to be performed by the consultant and subconsultants.
- B. The LPA must incorporate ODOT's "Specifications for Consulting Services – 2016 Edition" as a contract document in all of its consultant contracts.
- C. The LPA must require, as a scope of services clause, that project development follow ODOT's Project Development Process, and that all documents and plans prepared by the consultant must conform to ODOT's current standards, including the electronic deliverable

requirements of ODOT's CADD Engineering Standards Manual, and Location and Design Manual Volume 3, Section 1500.

- D. The LPA consultant agreement must provide for ongoing consultant involvement during the construction phase of the Project.
- E. The LPA consultant agreement must include a completion schedule acceptable to ODOT.
- F. The LPA must assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.
- G. The LPA must cooperate with ODOT in directing additional or corrective work, and to recover damages due to errors or omissions.
- H. If Federal Funds are used to pay the cost of any contract for professional services, the LPA must comply with 23 CFR 172, Sections 153.65 through 153.71 of the Ohio Revised Code and Section 5.2 below in the selection of consultants, and administer consultant agreements in accordance with ODOT's Manual for Administration of Contracts for Professional Services. Professional services, as defined in Sections 5526.01 and 153.65(C) of the Ohio Revised Code, include the practice of engineering (including inspection of construction), the practice of surveying, the practice of architecture including landscape architecture, evaluation of environmental impacts, right-of-way acquisition services and administration of construction contract claims.

5.2 Procedures for LPA Selection of Consultants for Agreements that Include Federal Funds in Preliminary Engineering

A. Policies in Selection of Consultants

1. Restrictions Concerning LPA Preferences

The LPA **shall not** offer direction to consultants concerning preferences (or informal sanctions) for certain subconsultants or team arrangements. These arrangements are business decisions that must be made by consultants without direction from the LPA. The LPA must make selection decisions on the basis of proposed teams without advance "steering" of teams.

2. Communications Restrictions

Please note the following policy concerning communication between Consultants and the LPA during the announcement and selection process:

During the time period between advertisement and the announcement of final consultant selections for the Programmatic Selection Process, communication with consultants (or their agents) shall be limited as follows:

a. Communications which are strictly prohibited:

- (1) Communication with the LPA: Any marketing or similar discussions of the specific project if the consultant has submitted or plans to submit a letter of interest, or is included as a subconsultant on a submittal by another firm.

b. Allowable communications include:

- (1) Project administration activities for authorized agreements, scope and negotiation activities for projects selected but not under contract.
- (2) Technical or scope of services questions specific to projects posted with a programmatic group.

c. When completed selections must be publicly announced.

3. Advertisement

For selection procedures that require public notification, Requests for Letters of Interest "RFLol" must be advertised on the Consultant Services page of ODOT's website.

4. Disclosure of Selection Information

All selection information including consultant letters of interest shall be available for public disclosure upon completion of the selection.

Information that is not subject to public disclosure at any time includes financial statements and other confidential financial information submitted by a consultant.

5. Supporting Documentation

Documentation supporting the solicitation, proposal, evaluation, and selection of the consultant shall be retained.

6. Prohibited Selection Factors

- a. Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.
- b. In-State or local **preference** shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement for the minimum qualifications and competence of a consultant to perform the solicited services.

Refer to Section 5.2.C.1.n. below for additional guidance concerning the use of local **presence** as a nominal evaluation factor where appropriate.

B. Consultant Selection Processes

The LPA may use any one of five consultant selection processes permitted by 23 CFR 172 and ORC 153.65 – 153.71, the use of which depends on the complexity of the project, estimated total fee, the number of available qualified consultants and whether an emergency exists. The Programmatic and Technical Proposal selection processes are competitive qualifications based selection processes governed by 23 CFR 172.7(a)(1) and ORC 153.65 – 153.71. These selection processes require solicitation, evaluation, ranking, selection, and negotiation in accordance with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act or Selection of Architects and Engineers.

The Small Purchase selection process is a non-competitive selection process governed by 23 CFR 172.7(a)(2) and ORC 153.71(A). Agreements with total fees less than \$50,000 are eligible for this selection process.

The Emergency and Special Expertise selection processes are non-competitive selection processes governed by 23 CFR 172.7(a)(3) and ORC 153.71.

1. Programmatic Selection Process

The Programmatic Selection Process is a one-step selection process intended to shorten the selection/authorization process for non-complex projects while reducing paperwork and administrative costs for both consultants and the State. In this process consultants are selected based on standard letter of interest content, and a standard Selection Rating Form.. The “Programmatic” selection process should be used for most projects that do not meet the criteria for the more elaborate Technical Proposal Selection Process.

2. Technical Proposal Selection Process

The technical proposal selection process is a two-step process intended for use on larger, more complex projects for which a more informed selection decision can be made based on additional information received through the submittal of a (more elaborate) Technical Proposal, and/or presentations/interviews. The Technical Proposal Selection Process is appropriate to use under the following circumstances:

- a. Complex projects involving multiple PDP steps and multiple disciplines including planning, environmental and design services.
- b. Projects that include complex project management challenges in which the role of the consultant project manager will be crucial to project success, and may require extensive public involvement activities.
- c. Specialized services for which the LPA has limited experience and performance records for past projects.
- d. Generally any project for which a single submittal does not provide sufficient information to make a well informed selection decision.

The technical proposal selection process includes the initial submittal of a letter of interest similar to the Programmatic Selection Process, and then “shortlisting” to at least three of the most highly qualified firms. The standard letter of interest content may be revised to include increased page limits and project specific content. The shortlisted firms are then required to submit additional written information (technical proposal) and/or participate in additional discussions or presentation/interview. The content of the technical proposal and the format of interviews can be tailored to fit the requirements of specific projects.

Discussions, if required by the RFLol, may be written, by telephone, video conference, or by oral presentation/interview and shall be with at least three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFLol.

The process for shortlisting at least three consultants is identical to that of the Programmatic Selection Process. The final selection of a single consultant also follows the same process but considers the written technical proposal and/or presentation/interview along with the initial letter of interest.

3. Emergency Selection Process

The LPA may directly select a consultant for a project determined by the Director of Transportation to be an emergency which will not permit the time necessary to conduct a competitive selection process. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

4. Small Purchase Selection Process

The LPA may directly select consultants without solicitation for projects with an estimated total fee of less than \$50,000. The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of fee exempt procedures. The following requirements apply:

- a. The qualifications of a minimum of three consultants must be reviewed prior to selection. The consultants considered for selection and the reasons for selecting the most qualified consultant shall be documented.

In instances where two or fewer consultants are considered qualified, the LPA may proceed with evaluation and selection if it is determined that the project requirements did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

- b. The full amount of any contract modification that would cause the total contract amount to exceed \$50,000 is ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if Federal funds are used in modifying an agreement above the \$50,000 simplified acquisition threshold.
- c. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

5. Special Expertise Selection Process

The LPA may directly select consultants for projects for which the service is available only from a single source. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

C. Selection Procedures – Programmatic Selection Process

1. Letter of Interest Content

Requests for Letters of Interest (RFLoI) shall include the following:

- a. Project name from Ellis (County-Route-Section);

- b. A description of the project including the location.
- c. A description of the selection process to be used, including the number of steps (direct selection based on the information provided, or a two-step process with a short list and technical proposal and/or interviews, etc.), and the selection rating criteria to be used. The standard selection rating form included herein should be used for most projects.
- d. Any restrictions on communicating with government officials during the selection process.
- e. Any restrictions concerning suspended or debarred firms.
- f. Date that the letter of interest is due. The minimum response time shall be two weeks from the initial posting date.
- g. The approximate construction cost if available.
- h. Any special provisions or contract requirements associated with the services.
- i. The following notification:

The [LPA] in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all bidders including disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex (including pregnancy, gender identity and sexual orientation), age, disability, low-income status, or limited English proficiency in consideration for an award.

- j. The DBE Goal requirements and related selection procedures.
- k. Major work elements involved.
- l. A detailed scope of services for the agreement.
- m. The ODOT prequalification(s) required to provide the services;
- n. Subfactors - Any important aspects of a project, if any, that will play a large role in the consultant selection process.

In-State or local preference shall not be used as a selection factor or subfactor, however a local presence may be used as a nominal evaluation factor where appropriate. This criteria shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of

the project. If a consultant from outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

- o. The contract type and payment method(s) anticipated to contract for the solicited services. Refer to Chapter 4 of ODOT's Consultant Contract Administration for detailed explanations of contract types and payment methods.
- p. Estimated date of authorization.
- q. Time period in which the work must be completed.
- r. Instructions for submitting a letter of interest including content and required format. The information requested should be consistent with the rating criteria.
- s. Required content of the letter of interest (RFLol) including:
 - (1) The firm's general qualifications.
 - (2) Proposed key staff including key subconsultant staff and project approach.
 - (3) A listing of subconsultants including project responsibility.
 - (4) Whether resumes of key staff members must be submitted.
 - (5) Other information needed to make an informed selection decision.

2. Evaluation Process

- a. Initially evaluate all firms for compliance with the following requirements, advise Districts of the firms that must be eliminated from further consideration and the reason for elimination:
 - (1) Compliance with general Lol requirements, current negligence issues, and ongoing performance issues identified through CES, overall low CES rating, insufficient staff, excessive workload, or any other significant issues relative to a firm's performance.
 - (2) Inclusion on the list of firms suspended or debarred by the Federal Government.
 - (3) For projects noted as having DBE Goals, ODOT will determine whether the consultant made a good faith effort to meet the goal in accordance with 49 CFR 26.53 and Appendix A to Part 26. The letter of interest must show that the consultant has made good faith efforts to meet the goal. Good faith efforts may include: (1) Documentation that the consultant has obtained enough DBE or EDGE (Encouraging Diversity, Growth and Equity) participation to meet the goal; or (2) Documentation that it made adequate good faith efforts, as defined in 49 CFR 26.53, to meet the goal, even though it did not succeed in obtaining enough DBE/EDGE

participation to do so. Consultants that do not show good faith efforts to meet the Goal will not be eligible for selection.

- b. Compliance with prequalification requirements.
- c. Reduce the number of firms to 3-6 for each project through a process of elimination, based on the selection rating factors included in the Consultant Selection Rating Form. Firms may be eliminated due to fatal flaws, overall weakness of team relative to other firms, weak project approach, etc. Provide written documentation concerning the reasons for eliminating a firm from consideration.

In instances where two or fewer consultants respond to the RFLol, or two or fewer consultants are considered qualified to be shortlisted, the LPA may proceed with evaluation and selection if it is determined that the solicitation did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

- d. For each project, rate each shortlisted firm using the selection rating form.

Supplement the numerical ratings with written comments that explain the differential scoring. The highest rated firm shall be selected.

3. Selection Rating Procedures

- a. ODOT's standard consultant selection rating form is shown below. The LPA may use a modified selection rating form that meets the requirements of 23 CFR 172 and ORC 153.65 – 153.71.
- b. Selection evaluations should be based on collaborative discussions of the selection committee members concerning the overall strengths and weaknesses of the teams, including the relative importance of the various selection rating factors relative to the specific requirements of the project. Numerical weights are a guide as to what is important but the selection should not be a mathematical exercise consisting of the addition of scores determined by individual team members. The selection team members should work to reach consensus in determining a single selection rating including written comments that document the reasons for the numerical scores.
- c. For each selection rating factor, each short listed firm shall be ranked, with the highest ranked firm receiving the maximum number of points, and lower ranked firms receiving commensurately lower scores. If firms are considered to be equally qualified, the firms may receive the same score for that selection rating factor. The rankings and scores should be based on each firm's specific proposal and project approach, including the named project manager, staff and subconsultants. Experience on similar projects, past performance for the LPA and other agencies should be considered. The selection committee may contact other ODOT Districts and outside agencies if necessary. Any subfactors identified in the RFLol should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of a selection factor in the success of a given project. The project manager's role in a

simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differential scores assigned to projects that require a larger role for the project manager. Similar consideration should be given to all selection factors

4. ODOT's Consultant Selection Rating Form and Selection Rating Notes

Category	Total Value	Scoring Criteria	Score
Management & Team			
Project Manager	10	See Note a. below	
Strength/Experience of Assigned Staff including Subconsultants	25	See Note b. below	
Firm's Current Workload/ Availability of Personnel	10	See Note c. below	
Consultant's Past Performance			
Project Approach			
Total	100		

The following discussion addresses each selection rating factor including scoring methodology, appropriate sources of information and factors that may not be considered.

a. Project Manager

The proposed project manager for each consultant shall be ranked, with the highest ranked project manager receiving the greatest number of points, and lower ranked project managers receiving commensurately lower scores. The rankings and scores should be based on each project manager's experience on similar projects and past performance for the LPA. The selection committee may contact ODOT and outside agencies if necessary. Any subfactors identified should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of the project manager's role in the success of a given project. The project manager's role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differentials assigned to projects that require a larger role for the project manager.

b. Strength/Experience of Assigned Staff including Subconsultants

The experience and strength of the assigned staff, including subconsultant staff, should be ranked and scored as noted for Number 1 above, with higher differential scores assigned on more difficult projects. Any subfactors identified in the project notification should be weighed heavily in the differential scoring.

As above, ODOT and other agencies may be contacted.

c. Firm's Current Workload/ Availability of Personnel (Considered at statewide meeting)

In instances when consultant's current workload may impact their ability to complete the work as proposed, the firm's current workload and availability of qualified personnel shall be considered.

d. Consultant's Past Performance

The consultants' past performance on similar projects, including subconsultant performance, shall be ranked and scored on a relative, differential scoring type basis, with the highest ranked consultant receiving a commensurately greater number of points. The selection team should consider ODOT CES performance ratings if available, and consult other ODOT Districts, ODOT Central Offices, and other agencies as appropriate. The use of CES ratings shall place emphasis on the specific type of services requested.

The differential scoring should consider the complexity of the project and any subfactors identified in the project notification.

e. Project Approach

Evaluation of the firm's project approach shall consider:

- (1) The firm's technical approach and understanding of the project.
- (2) The firm's qualifications for the project including knowledge and experience concerning relevant ODOT standards, procedures and guidance documents.
- (3) Any innovative ideas.

When considering this factor in rating firms, the type of project and the relevance of this factor to the project must be considered. For task order and construction inspection projects, and small uncomplicated design projects, the possibility for innovation may be very limited. Larger more complex projects will generally offer more opportunities for innovation. Consultants that identify truly innovative ideas should receive credit in the selection rating, but this factor can be disregarded when projects offer little opportunity for innovation.

- (4) The firm's project specific plan for ensuring increased quality, reduced project delivery time and reduced project costs.

These factors will be relatively more important and relevant to a complex PDP project, and much less important for a construction inspection or task order contract. Please remember that Federal rules prohibit consideration of overhead rates, wage rates or any other cost data submitted voluntarily by the consultant.

D. Negotiation of Consultant Agreements

Agreements shall be negotiated in accordance with ODOT's Manual for Administration of Contracts for Professional Services, Volume 1 Consultant Contract Administration, Section 3.9.

E. Agreements

ODOT will prepare the LPA/Consultant Agreement between the Consultant and LPA. The agreement will be transmitted to the LPA by the ODOT District Office. A copy of the executed LPA/Consultant Agreement shall be returned to the District Office.

F. Documentation of Consultant Selections

The LPA shall maintain a consultant selection file that includes the following information, and provide copies of all documents to the District for their files.

1. A copy of the Request for Proposal and the date posted on ODOT's website;
2. A listing of firms that submitted Letters of Interest;
3. Letters of Interest from all firms that submitted;
4. Selection rating forms and any supporting notes and documentation, including membership of the selection committee;
5. A listing of firms selected to submit technical proposals (if applicable), copies of the technical proposals, and related correspondence;
6. Selected consultant's Price Proposal;
7. Negotiation records; and
8. A copy of the Agreement, Scope of Services, authorization letter, Invoice and Project Schedule, and any other documents relevant to the agreement.

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. Refer to Sections 4.2 and 4.4 concerning Federal authorization.

6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.

6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to

perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 The **LPA** will coordinate with utilities, complete RE-75 forms, establish encumbrances towards each utility if needed, prepare an invoice to the LPA for the local share, and pay the State share as needed. In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. In the event that a utility is delaying the relocation of its facilities, the LPA shall take any action necessary to order and cause the removal and relocation of such utility. No reimbursable costs shall be incurred prior to the receipt of Federal Authorization for Right of Way from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 ODOT shall be responsible for any necessary railroad coordination and agreements in accordance with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that, if any property acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

7. ADVERTISING, SALE AND AWARD

- 7.1 ODOT will prepare the State's estimate and manage the advertising, sale and award process. The LPA and its consultant shall assist in responding to bidder questions, preparation of any addenda and other coordination as needed. ODOT's Awards Committee shall determine award of the contract.

8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 ODOT will administer the construction contract in accordance with ODOT's Construction Administration Manual of Procedures. The LPA and LPA's consultants shall respond promptly to requests for information or other construction issues. The LPA shall review and approve all change orders. The LPA and LPA's consultant shall assist in defending ODOT against any contractor claims.

9. CERTIFICATION AND RECAPTURE OF FUNDS

- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.
- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from contractor performance and payment bond(s) and consultant insurance shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.
- 10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. For a PROJECT upon which a DBE goal is assigned, the LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this PROJECT for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the ORC.

Pursuant to 49 CFR 26.13(b), the LPA agrees not to discriminate on the basis of race, color, national origin, or sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency in the performance of this Agreement. The LPA agrees to carry out applicable requirements of 49 CFR Part 26 in the award and

administration of DOT-assisted contracts. The LPA understands that failure to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as ODOT deems appropriate.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest") agrees as follows:

(a) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(c) **Solicitations for Professional Services:** In all solicitations for professional services made by the LPA for work to be performed under a contract or subcontract, each potential consultant will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency.

(d) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(e) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

(1) withholding of payments to the LPA under the contract until the LPA complies, and/or
(2) cancellation, termination or suspension of the contract, in whole or in part.

(f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing

such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

- 11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.
- 11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.
- 11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

12.5 This Agreement and obligation of the parties herein may be terminated by either party with thirty days written notice to the other party. In the event of termination, the LPA shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

12.6 In the event of termination for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

If to ODOT:

Susanna Niermann O'Neil, City Manager	John P. Picuri, P.E. , District Deputy Director
City of Cleveland Heights	Ohio Department of Transportation, D-12
40 Severance Circle	5500 Transportation Boulevard
Cleveland Heights, Ohio 44118	Garfield Heights, Ohio 44125

15. GENERAL PROVISIONS

15.1 *Recovery of LPA's allocable project Direct Labor, Fringe Benefits, and/or Indirect Costs:*

To be eligible to recover any costs associated with the LPA's internal labor forces allocable to this PROJECT, the LPA shall make an appropriate selection below: [LPA official must initial the option selected.]

1. No cost recovery of LPA's project direct labor, fringe benefits, or overhead costs.

- (A) The LPA **does not** currently maintain an ODOT approved federally compliant time-tracking system¹, **and**
- (B) The LPA **does not** intend to have a federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this PROJECT, **and/or**
- (C) The LPA **does not** intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this PROJECT Agreement.

2. Direct labor plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.²

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA **does not** currently have, and **does not** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.³

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

1 A "federally compliant time-tracking system" is supported by a system of internal controls and record-keeping that accurately reflects the work performed; which provides reasonable assurance that the time being charged is accurate, allowable, and properly allocated; is incorporated in official records such as payroll records; reasonably reflects the employee's total activity; provides a time or percentage breakdown on all activities, both Federally funded and non-Federally funded for the employee and complies with the LPA's pre-established accounting practices and procedures.

2 [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. The definition of MTDC is provided in the regulation at 2 CFR §200.68. Any questions regarding the calculation of MTDC for a specific project should be directed to the Office of Local Programs. Further, regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

3 [Also be sure to read footnotes # 1 and 2] The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is



4. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA's ODOT approved Indirect Cost Rate.⁴
 - (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
 - (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, **and**
 - (C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this PROJECT.

For any allocable project labor costs to be eligible for reimbursement with Federal and/or State funds, the LPA must maintain compliance with all timekeeping requirements specified in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance, including ODOT Questions and Answers and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall maintain compliance with Appendix VII of 2 CFR Part 200 and the LATP Manual of Procedures.

- 15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.
- 15.3 *Financial Reporting and Audit Requirements:* If one or more phases of this AGREEMENT include a sub-award of federal funds to the LPA, the LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200. If not, the financial reporting and audit requirements remain with ODOT.

All non-federal entities, including ODOT's LPA subrecipients, that have aggregate federal awards expenditures from all sources of \$750,000 or more in the non-federal entity's fiscal year must have a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

LPAs that expend Federal and State funds in the Preliminary Engineering and/or Right of Way phases of the Project must track these payments throughout the life of the in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as SEFA) is prepared annually for all *Applicable Federal Funds*. *Applicable Federal Funds* are those that are identified with the various project phases of this Agreement as a subaward. *Applicable Federal Funds* include not only those LPA project expenditures that ODOT subsequently reimburses with Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring funds related to this PROJECT are reported when the activity related to the Federal award occurs.⁵ Further, the LPA may make this

applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

4 [Also be sure to read footnote # 1] The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.

⁵ Per 2 CFR §200.502

determination consistent with 2 CFR §200.502 and its established accounting method to determine expenditures including accrual, modified accrual or cash basis.

When project expenditures are not accurately reported on the SEFA, the LPA may be required to make corrections to and republish the SEFA to ensure Federal funds are accurately reported in the correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

15.4 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

15.5 *Ohio Ethics Laws:* LPA agrees they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.

15.6 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.7 *Trade:* Pursuant to the federal Export Administration Act and Ohio Revised Code 9.76(B), the LPA and any contractor or sub-contractor shall warrant that they are not boycotting any jurisdiction with whom the United States and the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

The State of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The LPA certifies that it, its Contractors, subcontractors, and any agent of the Contractor or its subcontractors, acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control. A list of those sanctions by country can be found at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

15.8 *Lobbying:* Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). LPA agrees that it will not use any funds for Lobbying, 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of

Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- 15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.
- 15.10 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.11 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.12 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.13 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.14 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile or electronic signature on any other party delivered in such a manner as if such signature were an original.

The parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: CITY OF CLEVELAND HEIGHTS	STATE OF OHIO OHIO DEPARTMENT OF TRANSPORTATION
By:	By:
Susanna Niermann O'Neil City Manager	Jack Marchbanks Director
Date:	Date:

Attachment 1**PROJECT BUDGET – SOURCES AND USES OF FUNDS**

USES	SOURCES			LPA FUNDS			FHWA FUNDS			TOLL REVENUE CREDIT			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT													
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS													
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION													
PROJECT CONSTRUCTION COSTS													
TOTALS				\$160,000.00	80%	4SC7	\$40,000	20%	4BG7				\$200,000.00

CUY SRTS FY2022 CLEVELAND HTS
COUNTY-ROUTE-SECTION

Attachment 2

110908

PID NUMBER

36878

AGREEMENT NUMBER

DUNS NUMBER

DIRECT PAYMENT OF CONSULTANT

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's consultant shall be paid directly to the consultant in the pro-rata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this Agreement, and shall indicate that the payment is to be made to the consultant. In addition, the invoice must state the consultant's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the consultant and those that are to be made to the LPA.

When ODOT uses Federal funds to make payment to the consultant, all such payments are considered to be expenditures of Federal funds received and also expended by the LPA (subrecipient). Accordingly, the LPA is responsible for tracking the receipts and payments and reporting the payments Federal (Receipts) Expenditures on the Schedule of Expenditures of Federal Awards (SEFA). An LPA that fails to report these funds accurately and timely may be required to restate the SEFA to comply with Federal reporting requirements.

We City of Cleveland Heights (NAME OF LPA) request that all payments for the Federal/State share of the

consultant costs of this agreement performed by

(CONSULTANT'S NAME)

be paid directly to

(CONSULTANT'S NAME)

VENDOR Name:	
Oaks Vendor ID:	
Mailing Address:	
LPA signature:	

LPA Name:	City of Cleveland Heights
Oaks Vendor ID:	
Mailing Address:	40 Severance Circle
	Cleveland Heights, Ohio 44118
ODOT Approval signature:	



Monday, October 4, 2021 Minutes

CITY COUNCIL

8:58 – 10:04 p.m.

President Stein presiding

Roll Call: Present: Cobb, Hart, Russell, Seren, Stein, Ungar

Staff present: Hanna, Himmelein

Approval of the minutes of the Council meetings held on August 25 and August 30, 2021

Minutes were approved without any objections.

Matter of Record

Personal communications from citizens

Diane Hallum asked Council why she had not received a written response to her complaint that she submitted on September 13, 2021, regarding CDBG funds within 15 working days. She also stated that she is being investigated by the City's Law Department. Law Director Hanna explained that federal regulations require the City to respond to a complaint within 15 working days if practicable and the City's Citizen Participation Plan requires the City to make every effort to respond within 15 working days, and the City has done that. He said she will receive a written response that week. Mr. Hanna further explained that there was a short leave of absence among the people working on the response. Ms. Hallum expressed her displeasure with how the City has treated her.

Reverend Don King wanted to discuss the dog park proposed for the Top of the Hill construction project and the leaks in the newly constructed garage. He asked Council to authorize the City Manager to negotiate with Flaherty and Collins to relocate the dog park from the entrance of the Buckingham Condominiums. He also suggested having the City develop their own dog park if the developer refuses to relocate the proposed dog park. He believes a City dog park would be more accessible to the public and would be a true green space instead of what is currently being proposed.

President Stein advised Rev. King that Council would need to have a full discussion on the dog park subject and would not be able to respond to him tonight.

Rev. King said the newly constructed garage has been leaking and had Council listen to audio of his neighbor, Carol Leslie Hosticka, describing the conditions of the garage while it was raining. Ms. Hosticka stated that water is not draining as it should and is pooling into the parking spaces. Ms. Hosticka is concerned about this turning into ice in the winter and the water ruining the concrete. Rev. King said that this video has been sent to the Council members and that this is happening in the very center of the parking garage. He said the muddy water is pouring all over their cars and they are unable to park in the center of the parking garage. The water is running down several floors of the parking garage. This will be a safety hazard when winter comes since the water will become sheets of ice. People may be seriously hurt if this is not fixed soon. He asked that the records regarding the construction of this parking garage be made public.

President Stein requested that Rev. King be provided with information on requesting public records.

Rev. King requested Council watch the video Ms. Hosticka had sent to them and to visit the parking garage on a rainy day so as to see the cascading water in person.

Council Member Hart said she had watched the video and encouraged other members of Council to watch it. She cannot imagine what it is going to be like in the winter with the water running down.

Council Member Russell stated that the garage simply needs to be fixed.

John Fleshin wanted to speak about trees. He began by naming different species of trees and thanked former City Forester Tom Morgan, who now is the Forester for the City of Lyndhurst, for providing the names of these trees. He wanted to remind everyone that if something goes wrong with a project of the magnitude of Cedar-Lee-Meadowbrook, there is no easy way to fix it. He informed Council that he did not appreciate Council Member Ungar's comments after he left the last Council meeting. He felt that he was slandered and would have clarified his comments had Council Member Ungar asked him directly.

Council Member Ungar disagreed that he called Mr. Fleshin any named and stated that the discussions and decisions Mr. Fleshin was referring were held and made at open meetings and that Mr. Fleshin was spreading false information.

Fran Mentch stated that the People for the Park are circulating a petition to be put on the ballot for May for an activity park to be built on the 1.07 acres on Lee Road at the corner of Tullamore and Meadowbrook. She said there is some confusion and there are two types of parks being considered. One of these parks is the one that her petition is proposing while the other is the one proposed by the developers and would only be one third acre in size. Residents have been confused because they think they are already getting a park, but it is not the same kind of park as People for the Park are proposing. The land the developer is proposing they use for the park cannot be utilized by the developer for anything else. The park would essentially be an extension of a courtyard. Ms. Mentch brought up a study that demonstrated when developers create parks on land they have no other use for, this often results in neither group being served well. She is also concerned about the quality of work that is coming from these developers. She pointed out that the same developers who are involved with this project are the ones who built the parking garage at Top of the Hill.

Ms. Mentch also had concerns regarding transparency. She feels that the citizens did not have enough of a say in the project and were not asked in the beginning whether or not they wanted a park or a development. She said she submitted a plan for the park three times and requested eight times that the park be put on the agenda. Council Member Ungar had said there had been three meetings regarding this project. However, Ms. Mentch did not find them helpful. She felt that People for the Park should have been invited to participate in these meetings, especially the one regarding green space. Ms. Mentch also feels that people have not been provided with enough financial information and wishes to view the detailed financial analysis provided to the City by the developer. She also questioned the developer acquiring property in the vicinity of the project site and the City entering into easements/leases with respect to such additional property. She would appreciate more transparency when it comes to these ongoing negotiations between the City and the developer.

Ms. Mentch thanked everyone for their patience and stressed that People for the Park is an altruistic group and there is no financial incentive for them to advocate for this green space. Ultimately, she believes the park that People for the Park are proposing would ensure the success of the entire area.

Report of the City Manager

Nothing to report at this time.

Council Member Russell requested that the City Manager have someone look into the water that is running through the parking garage.

Report of the Clerk of Council

Nothing to report at this time.

FINANCE COMMITTEE

ORDINANCE NO. 129-2021 (F), *First Reading*. An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Cobb

Roll Call: Ayes: Hart, Russell, Seren, Stein, Ungar, Cobb
 Nays: None

Legislation Passed

RESOLUTION NO. 130-2021 (F), *First Reading*. A Resolution authorizing the City Manager to take all actions necessary to allocate to the Chagrin Valley Dispatch Council one hundred percent of the municipal income tax paid to the City by employees of CVD; and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Cobb

Roll Call: Ayes: Russell, Seren, Stein, Ungar, Cobb, Hart
 Nays: None

Legislation Passed

MUNICIPAL SERVICES COMMITTEE

Nothing to report at this time.

PLANNING AND DEVELOPMENT COMMITTEE

RESOLUTION NO. 131-2021 (PD), *First Reading*. A Resolution authorizing the City Manager to enter into a Development Agreement with Start Right Community Development Corporation, for the redevelopment of certain vacant residential lots owned or controlled by the City with new single-family homes; and declaring an emergency.

Introduced by Council Member Ungar, Seconded by Council Member Hart

Roll Call: Ayes: Seren, Stein, Ungar, Cobb, Hart, Russell
 Nays: None

Legislation Passed

Council Member Ungar said this was discussed in Committee of the Whole and clarified that this was not discussed in Executive Session.

Vice President Seren told Council that he spoke to Mr. Hicks earlier and appreciated his willingness to attend the earlier meeting and respond to council members. However, while there are things he likes about this proposal, there are also things he does not like. Vice President Seren went on to say that he appreciates that this is a group of accomplished, skilled Black men that have come together to create this enterprise and he would like to see more of that in our community. Additionally, this is a step forward for more equitable City-supported development in areas that are not received the same level of investment as other areas of the city. However, he worries that the City is sending a message to the LGBTQ+ members of the community that the past public display of denial of their dignity and equality is just water under the bridge without some real reconciliation and educational opportunities. He looks forward to continued dialogue regarding these concerns.

Additionally, Vice President Seren would have preferred a second reading before Council to allow for a greater understanding and citizen input. He would have liked more time to go through the legislation and related documentation in depth. The possibility of creating another extension was not even considered, and he thinks Council's default position should not be to pass something on first reading on an emergency basis.

Furthermore, Vice President Seren believes that they could be missing an opportunity regarding sustainability. He thinks striving to achieve LEED Silver will not be enough for the City to reach their sustainability goals. He believes our community deserves better and this was an opportunity to do better, perhaps even with the same developer. Ultimately, he thinks the transfer of these vacant lots to provide the opportunity for redevelopment is a positive. However, he is concerned about the lead developer's lack of experience with building houses and the City's burden should this project fail. He believes they could have obtained a more secure deal with a nearly guaranteed outcome if they had implemented a different approach. Overall, this deal is a mixed bag for him and he wanted to express his concerns.

Council Member Ungar pointed out that this process began nearly a year ago and no one on this council brought up that the standards for these builders should be north of LEED Silver. He said that when the County built the relatively recently constructed Juvenile Justice Center, they went with the LEED Silver standard. Of course, it would be ideal to be as green as possible, but economic feasibility must also be considered. Council

Member Ungar reiterated that this is the first he has heard of the LEED Silver standard not being good enough for this project.

In response to Vice President Seren's complaints about not receiving the council packet until Friday and having limited time to go through the materials, Council Member Ungar pointed out that receiving the council packets on Fridays used to be the norm. They should be accustomed to this time frame for reviewing council materials. He doesn't want anyone to be left with the impression that this process was rushed since the process began nearly a year ago.

Council Member Russell expressed that she feels this contract has been repeatedly nit-picked every time they discuss it. It is not always what is in the contract or what is going on with the contract. The two things that Vice President Seren found unacceptable within the contract were removed. She went on to say that there are two CDCs in the City and one of these can be looked at as an African American CDC. The other can be viewed as a white CDC. The white CDC gets \$140k a year to operate, and they do an excellent job. She supports them 100%. Conversely, the CDC in the African American community, which is trying to build up the African American community, has not received any money from the City.

Council Member Russell said hate does not belong in this City and believes that for healing to occur, the LGBT community and StartRight need to work together. This is about bringing people together to bring about a change in mindset. Pastor Hicks has paid the price repeatedly for whatever he did. For example, he is no longer sitting on this Council. Council Member Russell asked, when does this stop? She refuses to discriminate against this gentleman when he is doing good for the African American community. We should all help uplift each other. Discrimination is not tolerated within this community where "All Are Welcome." Council Member Russell stated that the developer's beliefs are the result of his upbringing, and she doesn't discriminate against people for their beliefs. This is about business and helping the City and a community that desperately needs it. She encouraged anyone who has an issue with this to call her directly. She said StartRight deserves this contract, and they have her full vote and support.

Council Member Hart said she is comfortable moving forward with the project and believes the benefits outweigh the risks. She thinks they've addressed many of the potential risks already. She is aware of what occurred in the past and spoke with the developer about it herself. He told her he was a new pastor at that time and probably had more passion than compassion. He is doing good in the community, and she thinks that is commendable. We don't always agree with people, but sometimes you need to work together. Council Member Hart said she supports moving forward with this project.

Council Member Russell reiterated that this is not about a man. This is about a contract to help a community. Personalities need to be put aside and love needs to be brought into this community.

Council Member Cobb said this CDC has taken on tasks that no one else has been willing to take on. If they weren't stepping up to the plate, these things wouldn't get done. He asked why the City isn't selling the lots for \$1 instead of \$100 per lot. He said he usually sees them sold for \$1 in these kinds of contracts. He questioned whether there is disparate treatment occurring. There is some urgency to get this passed so the developer can start construction. They are supposed to have three homes completed by the end of next year. If they do not, the City can terminate the contract. He does not see any reason for further delay since Council approved the City going forward with negotiations back in March, before Council Member Cobb was on Council. In his opinion, this should have been done with months ago and the developer should have already started construction. He fully supports moving forward with the project and believes it should have been approved months ago.

Council Member Russell wanted to make it known that there were two community meetings regarding this project. The developer also showed the designs for each property during these meetings.

Council Member Hart added that during her discussion with the developer, she felt that he had to agree to not discriminate on the sale of the properties and to not discriminate in hiring. This was also included in the contracts.

Council Member Russell said this was one of the first things that was discussed when she spoke with him. Furthermore, she spoke with the LGBT community and they did not have an issue so long as there was no discrimination.

President Stein thanked StartRight for the wonderful work they are doing. He said that they truly care about the Caldonia neighborhood and it is a neighborhood that desperately needs attention. He agrees that they should have passed this many months ago.

After the legislation passed, Council Member Ungar brought up the topic of council meeting minutes and how they've been done recently. He does not believe a verbatim transcript is necessary since they have a video record. Transcription software was suggested as an option, but those are not flawless. He would be in favor of that if it would save the City time and money. He wanted to make it clear that he is not in favor of eliminating meeting minutes, but that we should look at how other municipalities are preparing them. As of right now, the tax payers are paying dearly for these nearly

verbatim transcripts, which are redundant with the audio and video recordings that are available.

PUBLIC SAFETY AND HEALTH COMMITTEE

Nothing to report at this time.

ADMINISTRATIVE SERVICES COMMITTEE

Nothing to report at this time.

COMMUNITY RELATIONS AND RECREATION COMMITTEE

Nothing to report at this time. Council Member Russell thanked everyone who has reached out to her regarding the birth of her new grandson. She will be out of commission for a few weeks due to two recent deaths in the family.

President Stein offered his condolences to Council Member Russell. He also congratulated her on the birth of her grandson.

Consent Agenda

Motion to suspend rules by Council Member Cobb, Seconded by Council Member Ungar

Roll Call: Ayes: Stein, Ungar, Cobb, Hart, Russell, Seren
 Nays: None

RESOLUTION NO. 132-2021 (CCR), *First Reading*. A Resolution joining communities throughout the nation in proclaiming October 2021 National Breast Cancer Awareness Month; October 13, 2021, Metastatic Breast Cancer Awareness Day; and October 22, 2021, National Mammography Day; and declaring an emergency.

RESOLUTION NO. 133-2021 (CRR), *First Reading*. A Resolution proclaiming October 2021 as Domestic Violence Awareness Month; and declaring an emergency.

Motion to adopt by Council Member Cobb, Seconded by Council Member Hart

Roll Call: Ayes: Ungar, Cobb, Hart, Russell, Seren, Stein
 Nays: None

Legislation Passed

Report of the Council President

Nothing to report at this time.

NEXT MEETING OF COUNCIL: MONDAY, OCTOBER 18, 2021

Respectfully submitted,

Jason S. Stein
President of Council

Amy Himmlein
Clerk of Council



Monday, October 18, 2021 Minutes

CITY COUNCIL

7:36 – 8:09 p.m.

President Stein presiding

Roll Call: Present: Cobb, Hart, Russell, Seren, Stein
 Absent: Ungar

Staff present: Hanna, Himmlein, Niermann O'Neil

Approval of the minutes of the Council meetings held on June 28, September 13, and September 20, 2021

Minutes were approved without any objections.

Matter of Record

Personal communications from citizens

Lute Quintrell wanted to speak on the behalf of the Georgian Apartment Company and Owners Apartment Company. Mr. Quintrell is the treasurer of the Georgian Apartment Company, and they own the two buildings adjacent to the fire station on Cedar. Their property borders Nottinghill Lane, and they entered a contract with the City to allow the City and their contractors access to the property for the Delamere Sewer Project. The fence on the property was damaged during the course of the project, and they were surprised that it was not replaced or repaired after the project was completed in August. They began communications with the City and were told by Public Works that the Georgian Apartment Company property would be receiving a new fence and Owners' property would have their fence patched. The companies met and discussed what they would like to have done, and they sent an email on 9/27 to the Director of Public Works. They have not heard from anyone at City Hall as to how they can get this issue resolved. They are looking to meet with someone in City management to have this problem resolved amicably in a way that would benefit everyone.

City Manager Susanna Niermann O'Neil responded and said she would call Mr. Quintrell this week to set up an appointment.

Councilmember Hart stated that she has viewed the properties and the fence appears to need repairs.

Diane Hallum stated that she was not satisfied with the City's October 12, 2021, response to her complaint. She said that the City's CDBG administrator submitted an application for these funds based on a false claim. She said that the administrator claimed on the application and to CAC members that this area was inside of an Improvement Target Area, making it eligible for CDBG funds. However, according to the current data, this area is not in an LMI target area, is not blighted, and did not have immediate safety issues. Therefore, this area does not merit CDBG funds. Ms. Hallum was part of a sub-committee that voted on this based on the claim that this area was in an ITA. Eleven days after this vote, she obtained the full report, and it did not place the area within an ITA. She felt the CDBG administrator lied to the CAC to coerce members into voting for this project. Ms. Hallum stated that this claim was included in a July 15, 2021, pre-application for the project submitted by the CDBG administrator. Ms. Hallum said that she brought up this issue at the September 9, 2021, application review meeting of the CAC, and the CDBG administrator said the City is in the process of commissioning a new ITA study to be conducted and the subsequent report would show this area, or portions of it, to be inside of an ITA. She stated that the City's decision in its October 12, 2021, response to allow this application to continue through the review process will make the City complicit in an attempt to defraud a federal program. She stated that this project should be removed from any further consideration by the City, by Council, and by the CAC. She is stunned and perplexed by the lack of outrage about an employee falsifying an application for federal grant money.

President Stein requested a report from the City Manager regarding Ms. Hallum's allegations.

City Manager Niermann O'Neil told Council that information would be in their upcoming packet.

Robin Koslen read the speech she had planned for the past weekend's planned event at Millikin playground that was cancelled due to poor weather conditions. She stated that various groups of people worked together to make the playground site what it is today, and she is grateful to all of them. The site is more than just a playground; it is also an art gallery, music venue, pollinator garden, picnic site, Little Free Library, and cleaned up woods. She thanked volunteers and donors. She thanked partners, Heights Arts Collaborative and MetroHealth, for making possible the planned concert event. The CH-UH School District has also been a tremendous help throughout the process. However, she fears the site is in danger because there are those who want to cut down the woods and develop the area. They might offer to replant trees, but they will be nothing like the

mature trees that are currently there. They may offer to build a playground, but the playground would be nothing like the playground they currently have and would be minimal and generic. Most importantly, the playground would not be at this intersection where all feel welcome. Some candidates for school board, city council, and mayor are suggesting this site may be better utilized. She doesn't understand this since people are advocating for more parks and green space in the community. They have a space where neighbors get together and learn from each other. Ms. Koslen feels they are an example to the rest of the community on how to not just live with neighbors who are different from themselves but appreciate them. She is advocating for the preservation of the playground, woods, and their community.

President Stein said that while he does not agree with Ms. Koslen's entire narrative, he does believe the playground is an asset to the community.

John Fleshin brought a handout with a list of the mature trees that are represented in a proposed green space for Council Members. He mentioned that the green space he has been advocating for is shown as green space on Google maps.

Tony Cuda went to Council Member Russell's Noble Road meeting and learned about the ARPA Funds. He thinks it is a good idea for Council to come up with a set of standards to adhere to when it comes to allocating these funds. He believes using some of the funds for housing repair should be a higher priority because the entire neighborhood would benefit. He stated that helping businesses would benefit the entire business district that they are a part of as well as the surrounding neighborhoods. Since the schools already received federal money as well, he stated that that should be taken into consideration. There are always unintended consequences when it comes to legislation. He used the examples of increased federal unemployment benefits during the pandemic as well as the Affordable Care Act. Mr. Cuda believes it would be a lot easier to make decisions if they use and agreed upon a set of standards to evaluate each potential ARPA project. This would also help minimize unintended consequences and duplicative efforts.

Report of the City Manager

City Manager Niermann O'Neil announced that the Fall 2021 Shredding Day on the previous Saturday was a success and cars began lining up at 8:30 am even though the event did not begin until 9:00 am. Unfortunately, not all residents were able to utilize this service because they had to shut down an hour early since the truck was full. They are going to try to schedule another Shredding Day, but the company is booked out way in advance at this time. She apologizes to the residents who wanted to utilize this service but were not able to do so.

She said households will be receiving their Focus Magazines this week, and there will be an article regarding the City's automated collection. Unfortunately, the information in this article is no longer accurate. Due to delays in services and shipping, the City will not be able to start automated collection until the spring. This is not anyone's fault; this is happening all around the country right now.

She also wants to advise Council that they have a contract with Gannett Fleming to review the Horseshoe Lake issue and to report to Council. The report comes in two segments, and the mid-segment is a preliminary discussion. Gannett Fleming has already started researching, and they will be present next Monday at 6:30 pm to meet with Council in open session at Committee of the Whole so that Council can ask questions. Gannett Fleming will use those inquiries to fashion the final report that will be presented to Council in November. Per the contract, questions come from City Council only. She encouraged constituents to contact council members with the questions they would like answered.

Notified Council that sealed bids were received on October 8th for project #21-06 – Superior Road Rehabilitation, and the bid of Terrace Construction, Inc., of Cleveland, Ohio, bid of \$671,616.51 has been found to be the lowest and best responsive and responsible bid.

Matter of Record

Notified Council of Contract Change Order No. 1 for project #20-06 – Delamere Drive Basement Flooding Relief Project – increasing the original contract amount of \$895,134.50 to \$1,126,998.73.

Matter of Record

Report of the Clerk of Council

Nothing to report at this time.

MUNICIPAL SERVICES COMMITTEE

RESOLUTION NO. 134-2021 (MS), *First Reading*. A Resolution authorizing the Ohio Department of Transportation ("ODOT") to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights; and declaring an emergency.

Introduced by Council Member Russell

Legislation Introduced

PLANNING AND DEVELOPMENT COMMITTEE

Council Member Hart said the current design of the Cedar-Lee-Meadowbrook building is not the final design. This does not go to Council but instead goes to the Planning Commission. Anyone who is interested in the design should keep a lookout for the Planning Commission meetings. This may be discussed at either the 11/10 or 12/8 meetings. She advised everyone to check the city calendar for the accompanying documents.

President Stein said these meetings are done through Webex so people can attend the meetings from home.

PUBLIC SAFETY AND HEALTH COMMITTEE

Nothing to report at this time.

Council Member Cobb requested that City Manager Niermann O'Neil provide Council with an update regarding the Housing Department and the Novak Report at the next Council meeting. He would also appreciate if there was a way to have staff compile a list of problem properties in the City. If not, he requested that they be provided a quote of how much it would cost to hire someone to assist with identifying those target properties.

City Manager Niermann O'Neil said she will meet with the Housing Director and they will present this information to Council.

ADMINISTRATIVE SERVICES COMMITTEE

Nothing to report at this time.

COMMUNITY RELATIONS AND RECREATION COMMITTEE

RESOLUTION NO. 135-2021 (CRR), *First Reading*. A Resolution authorizing the City Manager to accept a grant from GameTime Company and to enter into an agreement for the purchase and installation of new playground equipment at Denison Park; and declaring an emergency.

Introduced by Council Member Russell, Seconded by Council Member Cobb

Roll Call: Ayes: Hart, Russell, Seren, Stein, Cobb
Nays: None

Legislation Passed

Council Member Russell thanked Parks & Recreation Director Joe McRae for obtaining this grant. She said they worked closely together in September and picked out the style

and colors for the new equipment. She is very happy and pleased that Denison Park is on its way towards some redevelopment and beautification.

Council Member Hart encouraged everyone to go on the website and view the picture of the proposed playground.

President Stein thanked Council Member Russell and Director McRae for their parts in making this happen.

FINANCE COMMITTEE

ORDINANCE NO. 136-2021 (F), *First Reading*. An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Russell

Roll Call: Ayes: Russell, Seren, Stein, Cobb, Hart
Nays: None

Legislation Passed

Clerk of Council Himmelein noted that we are increasing for debt for the Ring Road that Council approved and this is the appropriation to make that payment. There is offsetting revenue.

Report of the Council President

Nothing to report at this time.

NEXT MEETING OF COUNCIL: MONDAY, NOVEMBER 1, 2021

Respectfully submitted,

Jason S. Stein
President of Council

Amy Himmelein
Clerk of Council